

FEDERAL MINORITY BUSINESS DEVELOPMENT PROGRAM

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS

UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

FEDERAL MINORITY BUSINESS DEVELOPMENT PROGRAM

MARCH 24, 1983



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CONTENTS

Statement of Senators—	Page
Dixon, Hon. Alan J., a U.S. Senator from the State of Illinois.....	135
Nunn, Hon. Sam, a U.S. Senator from the State of Georgia.....	107
Weicker, Hon. Lowell, Jr., a U.S. Senator from the State of Connecticut, and chairman, Senate Small Business Committee	1
Statement of—	
Baldrige, Hon. Malcolm, Secretary, U.S. Department of Commerce	4
Ferrell, James C., president, Ferrell & Son General Construction Co., Atlanta, Ga	111
Hales, William R., editor and publisher, the Inquirer Newspaper Group	113
Sanders, Hon. James C., Administrator, Small Business Administration	13
Shepherd, John H., president, Dale Maintenance Co	119

APPENDIX

Letter dated March 24, 1983, to the Senate Committee on Small Business, from James Ferrell, president, Ferrell & Son General Construction Co	137
Letter dated March 31, 1983, to Senator Lowell Weicker, Jr., chairman, Senate Small Business Committee, from Armando C. Chapelli, Jr., presi- dent, the Washington Consulting Group	139
Letter dated April 1, 1983, to Senator Lowell Weicker, Jr., chairman, Senate Small Business Committee, from Dr. Claude Snorton, Jr., owner, Snorton & Associates.....	144

HEARING DATE

March 24, 1983: Morning session	1
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FEDERAL MINORITY BUSINESS DEVELOPMENT PROGRAM

THURSDAY, MARCH 24, 1983

U.S. SENATE,
SMALL BUSINESS COMMITTEE,
Washington, D.C.

The committee met, pursuant to notice, at 9:35 a.m., in room SR432, Russell Senate Office Building, Hon. Lowell Weicker, Jr. (chairman of the committee) presiding.

Present: Senators Weicker, Nunn, and Dixon.

Staff present: Robert M. Wilson, counsel; Rodney Doran, professional staff member; Alan L. Chvotkin, minority chief counsel; and Dorothy C. Olson, hearing clerk.

STATEMENT OF HON. LOWELL WEICKER, JR., A U.S. SENATOR FROM THE STATE OF CONNECTICUT, AND CHAIRMAN, SENATE SMALL BUSINESS COMMITTEE

The CHAIRMAN. Good morning.

This hearing today comes at a critical juncture for minority business. Over the next 2 years, over 400 firms are scheduled to graduate out of the SBA's 8(a) minority assistance program, something which has caused considerable controversy in recent months, and has prompted some charges that this administration is insensitive to the needs of minority business.

That these charges are based more on politics than on fact is, I think, borne out by the goals President Reagan has set forth for minority business development. In a statement on December 17, 1982, the President outlined an ambitious program which, if carried out, would result in the creation of an additional 60,000 minority businesses in the next 10 years; \$15 billion in procurement for minority firms by 1985; and an increase in credit and management assistance to minority businesses totaling more than \$1.8 billion over the next 3 years.

I have asked Secretary Baldrige and Administrator Sanders to be here today, as the heads of the two agencies with the primary responsibility for minority business development within the administration, to tell us how they plan to go about achieving the goals the President has laid out and providing new opportunities for growth and development of minority-owned firms.

I know both of these men well; I know their strong commitment to the minority community, and I am pretty certain that they know mine.

[The prepared statement of Senator Weicker follows:]

OPENING STATEMENT OF SENATOR LOWELL WEICKER
ON MINORITY BUSINESS DEVELOPMENT HEARING
MARCH 24, 1983

THIS HEARING TODAY COMES AT A CRITICAL JUNCTURE FOR MINORITY BUSINESS. OVER THE NEXT TWO YEARS, OVER 400 FIRMS ARE SCHEDULED TO GRADUATE OUT OF THE SBA'S 8(A) MINORITY ASSISTANCE PROGRAM, SOMETHING WHICH HAS CAUSED CONSIDERABLE CONTROVERSY IN RECENT MONTHS, AND HAS PROMPTED SOME CHARGES THAT THIS ADMINISTRATION IS INSENSITIVE TO THE NEEDS OF MINORITY BUSINESS.

THAT THESE CHARGES ARE BASED MORE ON POLITICS THAN ON FACT, I THINK IS BORNE OUT BY THE GOALS PRESIDENT REAGAN HAS SET FORTH FOR MINORITY BUSINESS DEVELOPMENT. IN A STATEMENT ON DECEMBER 17, 1982, THE PRESIDENT OUTLINED AN AMBITIOUS PROGRAM, WHICH, IF CARRIED OUT, WOULD RESULT IN THE CREATION OF AN ADDITIONAL 60,000 MINORITY BUSINESSES IN THE NEXT 10 YEARS; \$15 BILLION IN PROCUREMENT FOR

MINORITY FIRMS BY 1985; AND AN INCREASE IN CREDIT AND MANAGEMENT ASSISTANCE TO MINORITY BUSINESSES TOTALING MORE THAN \$1.8 BILLION OVER THE NEXT THREE YEARS.

I HAVE ASKED SECRETARY BALDRIGE AND ADMINISTRATOR SANDERS TO BE HERE TODAY, AS THE HEADS OF THE TWO AGENCIES WITH THE PRIMARY RESPONSIBILITY FOR MINORITY BUSINESS DEVELOPMENT WITHIN THE ADMINISTRATION, TO TELL US HOW THEY PLAN TO GO ABOUT ACHIEVING THE GOALS THE PRESIDENT HAS LAID OUT AND PROVIDING NEW OPPORTUNITIES FOR GROWTH AND DEVELOPMENT OF MINORITY-OWNED FIRMS.

I KNOW BOTH OF THESE MEN WELL AND I KNOW THEIR STRONG COMMITMENT TO THE MINORITY COMMUNITY. I'M PRETTY SURE THEY KNOW MINE. GENTLEMEN, I LOOK FORWARD TO HEARING WHAT YOU HAVE TO SAY.

The CHAIRMAN. Now, I have three brief informal comments.

I think the record is pretty clear on this Senator's commitment to the minority community, and that record will show that there have been times when I have been at odds with the administration as to various matters affecting the minority community.

On the other hand, my purpose is not to be in opposition but rather to be fair and to conduct myself based on the facts.

The criticisms that are leveled against this administration which relate to minority business or the minority business program commitment are totally unjustified in light of the facts.

Point No. 2: The two men that we have before us today I know well, one better than the other in the sense that Secretary Baldrige and I have grown up in politics in the State of Connecticut.

The Secretary was one of the leaders, in the Republican Party in the State of Connecticut for moderate republicanism and that party, insofar as minorities were concerned, was totally dedicated to the minority community of our State. As far as seeing that the goals of the administration are met, I would say that the matter could not be in better hands than those of Mr. Baldrige. I say that as a matter of personal experience.

The present Administrator of the Small Business Administration, Jim Sanders, I have known since the first day he walked into that job. We now have at SBA, for the first time, a man who is shaking that agency around to the point where it is not a dumping ground for every political hack that comes around.

Again if there was a man who, from the heart, was committed to the minority community, it is Jim Sanders. Here is a man who is going to be able to deliver on what is in his heart, rather than the political nonsense that has existed in that agency over the years.

I make these three comments vis-a-vis the administration, the Secretary of Commerce, and the Administrator of the Small Business Administration because they are deeply held feelings, and I felt this was the time to put them out on the table.

Gentlemen, it is good to have you here.

Secretary Baldrige, why don't you proceed first with your testimony?

STATEMENT OF HON. MALCOLM BALDRIGE, SECRETARY, U.S. DEPARTMENT OF COMMERCE

Mr. BALDRIGE. Thank you, Senator.

I cannot help but bring up the fact that it is a matter of great pride to me to see you in this endeavor in Washington because I have watched you for a great many years, and there has never been any question about your total commitment to this effort. I feel some good will come out of your work.

I am pleased to appear here today to discuss our activities to assist in the development of the minority business community.

Essentially, minority businesses are subject to all the market forces that other firms face, and this is why the President noted in his December 17 statement on minority business enterprise development that restoration of healthy, growing national economy is fundamental to creating the opportunity for the formation and

growth of minority-owned businesses. Today, we are on the road to economic recovery; minority business will share in that recovery.

We recognize that we need to take additional steps to help minority firms, but the actions we take will be effective over the long run only if we help these firms become more competitive and better able to compete for work outside the Federal sector.

The actions we have taken will help minority businesses develop that ability. The President's December 17 statement included specific numerical goals. As chairman pro tem of the Cabinet Council on Commerce and Trade, I will make every effort possible to achieve the administration's goals on behalf of minority businesses.

In his December 17 statement, the President announced he would issue a new Executive order to provide a charter for prescribing specific policies to foster the growth of minority businesses. This new Executive order will place responsibility for coordinating the formulation and implementation of Federal minority business development policy in the Cabinet Council on Commerce and Trade, under my direction.

The new order will place the responsibility in the Cabinet Council for two reasons. First, the Cabinet Council is a more effective administrative device to oversee Federal efforts which may affect many departments and agencies; and, second, it will guarantee that each agency and department understands the importance which the President attaches to issues affecting minority business development and devotes the necessary resources to meet our goals.

The existing programs of the Small Business Administration and the Minority Business Development Agency provide a firm foundation for strengthening the minority business community and improving its self-sufficiency. Jim Sanders and I will make sure that these programs are managed to provide the minority business community with the services it needs.

At the Department of Commerce, we have taken several major steps to improve the quality of services to minority firms. We have established a national network of 100 minority business development centers located in the 95 metropolitan areas with the largest minority populations.

These centers assist minority businesses in a number of ways. They compile inventories of minority-owned firms, of procurement and contract opportunities, and of capital sources. They match qualified minority firms with business and capital opportunities. They leverage Federal funds with other non-Federal and private sector funds.

In addition, the centers assist the local minority business community by identifying and advocating changes in regulatory and administrative barriers which impede the formation, expansion, and survival of minority businesses.

In addition to assisting minority businesses generally, MBDA has also taken a number of actions to help meet the special needs of firms which are completing participation in SBA's 8(a) procurement program. All firms completing the 8(a) program are eligible for MBDA assistance. SBA has agreed to send MBDA profiles of section 8(a) firms at least 14 months before they must leave the program.

Those firms expressing a willingness to participate in MBDA's transition program are offered a wide variety of management and technical services as needed from the nearest minority business development center.

Now, since the primary need of the 8(a) firm near program completion is new work to keep it going—it is a very practical problem—we are trying hard to find the kind of work that the firm can do and have it made available for this transition program.

Here are some examples:

One, we have directed each Federal agency's office of small and disadvantaged business utilization—that got by my proofreader—business use to identify additional Federal procurement opportunities.

Two, we have asked MBDA-funded State and local organizations to identify additional work that State and local government agencies might have for these firms.

Three, we have asked Paul Thayer, the Deputy Secretary of Defense, to write the top 100 defense contractors and encourage them to provide greater subcontracting opportunities to recent and prospective 8(a) program firms.

Four, we have asked the National Minority Supplier Development Council an organization of some 2,500 including the top 150 companies such as AT&T, Aetna, General Motors, and Boeing, and run by William Chaney, president of Avon, to identify work in the private sector which these 8(a) firms can handle. Yesterday, the council's operation committee agreed to formulate a continuing program for the current graduates of 8(a) as well as those who will be following throughout next year.

I think, Mr. Chairman, that this particular group is a well-run group that really wants to get the job done. That is not just talk. I think they will be some real help.

We also recognize that these firms may need additional sources of capital to take advantage of these opportunities, so MBDA is in the process of pulling together the American Bankers Association, the National Bankers Association, the American Savings & Loan League, the National Insurance Association, and the Export-Import Bank to help locate and provide technical and financial assistance. These actions, I hope, will result in a steady flow of services and information on business opportunities for 8(a) firms, as well as a pool of capital to enable them to take advantage of the opportunities.

Mr. Chairman, because the goals of 8(a)'s and MBDA's programs are the same, MBDA should prove helpful in assisting 8(a) firms to make the transition from dependence on Federal procurement programs to making it in the marketplace. I am confident that other Federal agencies will make similar cooperative efforts in connection with our activities in the Cabinet Council on Commerce and Trade.

With me today are Carlos Campbell, Assistant Secretary for Economic Development, and Victor Rivera, right next to him, director of MBDA, who will be happy to answer any specific questions about the transitional program. I will be happy to answer any you might have, Mr. Chairman, when you desire.

Thank you.

[The prepared statement of Secretary Baldrige follows:]

STATEMENT OF MALCOLM BALDRIGE
SECRETARY OF COMMERCE
BEFORE THE
COMMITTEE ON SMALL BUSINESS
UNITED STATES SENATE
MARCH 24, 1983

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I AM PLEASED TO APPEAR BEFORE YOU TODAY TO DISCUSS OUR ACTIVITIES TO ASSIST IN THE DEVELOPMENT OF THE MINORITY BUSINESS COMMUNITY.

MINORITY BUSINESSES ARE SUBJECT TO ALL THE MARKET FORCES THAT OTHER FIRMS FACE. THIS IS WHY THE PRESIDENT NOTED IN HIS DECEMBER 17TH STATEMENT ON MINORITY BUSINESS ENTERPRISE DEVELOPMENT THAT RESTORATION OF A HEALTHY, GROWING NATIONAL ECONOMY IS FUNDAMENTAL TO CREATING THE OPPORTUNITY FOR THE FORMATION AND GROWTH OF MINORITY-OWNED BUSINESSES. TODAY, WE ARE ON THE ROAD TO ECONOMIC RECOVERY. MINORITY BUSINESSES WILL SHARE IN THAT RECOVERY.

WE RECOGNIZE THAT WE NEED TO TAKE ADDITIONAL STEPS TO HELP MINORITY FIRMS, BUT THE ACTIONS WE TAKE WILL BE EFFECTIVE OVER THE LONG RUN ONLY IF THEY HELP THESE FIRMS BECOME MORE COMPETITIVE AND BETTER ABLE TO COMPETE FOR WORK OUTSIDE THE FEDERAL SECTOR. THE ACTIONS WE HAVE TAKEN WILL HELP MINORITY BUSINESSES DEVELOP THAT ABILITY. THE PRESIDENT'S DECEMBER 17TH STATEMENT INCLUDED SPECIFIC NUMERICAL GOALS. AS CHAIRMAN PRO TEM OF THE CABINET COUNCIL ON COMMERCE AND TRADE, I SHALL MAKE EVERY EFFORT POSSIBLE TO ACHIEVE THE ADMINISTRATION'S GOALS ON BEHALF OF MINORITY BUSINESSES.

IN HIS DECEMBER 17TH STATEMENT, THE PRESIDENT ANNOUNCED HE WOULD ISSUE A NEW EXECUTIVE ORDER TO PROVIDE A CHARTER FOR PRESCRIBING SPECIFIC POLICIES TO FOSTER THE GROWTH OF MINORITY BUSINESSES. THIS NEW EXECUTIVE ORDER WILL PLACE RESPONSIBILITY FOR COORDINATING THE FORMULATION AND IMPLEMENTATION OF FEDERAL MINORITY BUSINESS DEVELOPMENT POLICY IN THE CABINET COUNCIL ON COMMERCE AND TRADE UNDER MY DIRECTION. THE NEW ORDER WILL PLACE THE RESPONSIBILITY IN THE CABINET COUNCIL FOR TWO REASONS. FIRST, THE CABINET COUNCIL IS A MORE EFFECTIVE ADMINISTRATIVE DEVICE TO OVERSEE FEDERAL EFFORTS WHICH AFFECT MANY DEPARTMENTS AND AGENCIES. SECOND, IT WILL GUARANTEE THAT EACH AGENCY AND DEPARTMENT UNDERSTANDS THE IMPORTANCE WHICH THE PRESIDENT ATTACHES TO ISSUES AFFECTING MINORITY BUSINESS DEVELOPMENT AND DEVOTES THE NECESSARY RESOURCES TO MEET OUR GOALS.

THE EXISTING PROGRAMS OF THE SMALL BUSINESS ADMINISTRATION AND THE MINORITY BUSINESS DEVELOPMENT AGENCY PROVIDE A FIRM FOUNDATION FOR STRENGTHENING THE MINORITY BUSINESS COMMUNITY AND IMPROVING ITS SELF-SUFFICIENCY. JIM SANDERS AND I WILL MAKE SURE THAT THESE PROGRAMS ARE MANAGED TO PROVIDE THE MINORITY BUSINESS COMMUNITY WITH THE SERVICES IT NEEDS.

AT THE DEPARTMENT OF COMMERCE, WE HAVE TAKEN SEVERAL MAJOR STEPS TO IMPROVE THE QUALITY OF SERVICES TO MINORITY FIRMS.

MOST NOTABLY, WE HAVE ESTABLISHED A NATIONAL NETWORK OF 100 MINORITY BUSINESS DEVELOPMENT CENTERS LOCATED IN THE 95 METROPOLITAN AREAS WITH THE LARGEST MINORITY POPULATIONS.

THESE CENTERS ASSIST MINORITY BUSINESSES IN A NUMBER OF WAYS. THEY COMPILE INVENTORIES OF MINORITY-OWNED FIRMS, OF PROCUREMENT AND CONTRACT OPPORTUNITIES AND OF CAPITAL SOURCES. THEY MATCH QUALIFIED MINORITY FIRMS WITH BUSINESS AND CAPITAL OPPORTUNITIES. THEY LEVERAGE FEDERAL FUNDS WITH OTHER NON-FEDERAL AND PRIVATE SECTOR FUNDS. IN ADDITION, THE CENTERS ASSIST THE LOCAL MINORITY BUSINESS COMMUNITY BY IDENTIFYING AND ADVOCATING CHANGES IN REGULATORY AND ADMINISTRATIVE BARRIERS WHICH IMPEDE THE FORMATION, EXPANSION AND SURVIVAL OF MINORITY BUSINESSES.

IN ADDITION TO ASSISTING MINORITY BUSINESSES GENERALLY, MBDA HAS ALSO TAKEN A NUMBER OF ACTIONS TO HELP MEET THE SPECIAL NEEDS OF FIRMS WHICH ARE COMPLETING PARTICIPATION IN SBA'S 8(A) PROCUREMENT PROGRAM. ALL FIRMS COMPLETING THE 8(A) PROGRAM ARE ELIGIBLE FOR MBDA ASSISTANCE. SBA HAS AGREED TO SEND TO MBDA PROFILES OF SECTION 8(A) FIRMS AT LEAST FOURTEEN MONTHS BEFORE THEY MUST LEAVE THE PROGRAM. THOSE FIRMS EXPRESSING A WILLINGNESS TO PARTICIPATE IN MBDA'S TRANSITION PROGRAM ARE OFFERED A WIDE VARIETY OF MANAGEMENT AND TECHNICAL SERVICES AS NEEDED FROM THE NEAREST MINORITY BUSINESS DEVELOPMENT CENTER.

SINCE THE PRIMARY NEED OF THE 8(A) FIRM NEARING PROGRAM COMPLETION IS NEW WORK TO KEEP IT GOING, WE ARE TRYING HARD TO FIND THE KIND OF WORK THE FIRM CAN DO AND HAVE IT MADE AVAILABLE FOR THIS TRANSITION PROGRAM. FOR EXAMPLE:

- ° WE HAVE DIRECTED EACH FEDERAL AGENCY'S OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION TO IDENTIFY ADDITIONAL FEDERAL PROCUREMENT OPPORTUNITIES;
- ° WE HAVE ASKED MBDA FUNDED STATE AND LOCAL ORGANIZATIONS TO IDENTIFY ADDITIONAL WORK STATE AND LOCAL GOVERNMENT AGENCIES MIGHT HAVE FOR THESE FIRMS.
- ° WE HAVE ASKED PAUL THAYER, THE DEPUTY SECRETARY OF DEFENSE, TO WRITE THE TOP 100 DEFENSE CONTRACTORS AND ENCOURAGE THEM TO PROVIDE GREATER SUBCONTRACTING OPPORTUNITIES TO RECENT AND PROSPECTIVE 8(A) PROGRAM FIRMS; AND
- ° WE HAVE ASKED THE NATIONAL MINORITY SUPPLIER DEVELOPMENT COUNCIL, RUN BY WILLIAM CHANEY, PRESIDENT OF AVON, WHICH INCLUDES COMPANIES SUCH AS AT&T, AETNA, GENERAL MOTORS, BOEING AND THE TOP 150 CORPORATIONS IN THE UNITED STATES, TO IDENTIFY WORK

IN THE PRIVATE-SECTOR WHICH THESE FIRMS CAN HANDLE; YESTERDAY THE COUNCIL'S OPERATIONS COMMITTEE AGREED TO FORMULATE A CONTINUING PROGRAM FOR THE CURRENT GRADUATES AS WELL AS FOR THOSE WHO WILL BE FOLLOWING THROUGHOUT NEXT YEAR.

WE ALSO RECOGNIZE THAT THESE FIRMS MAY NEED ADDITIONAL SOURCES OF CAPITAL TO TAKE ADVANTAGE OF THESE OPPORTUNITIES. MBDA IS IN THE PROCESS OF PULLING TOGETHER THE AMERICAN BANKERS ASSOCIATION, THE NATIONAL BANKERS ASSOCIATION, THE AMERICAN SAVINGS AND LOAN LEAGUE, THE NATIONAL INSURANCE ASSOCIATION, AND THE EXPORT-IMPORT BANK TO HELP LOCATE AND PROVIDE TECHNICAL AND FINANCIAL ASSISTANCE. THESE ACTIONS SHOULD RESULT IN A STEADY FLOW OF SERVICES AND INFORMATION ON BUSINESS OPPORTUNITIES FOR 8(A) FIRMS, AS WELL AS A POOL OF CAPITAL TO ENABLE THEM TO TAKE ADVANTAGE OF THE OPPORTUNITIES.

MR. CHAIRMAN, BECAUSE THE GOALS OF THE 8(A) PROGRAM AND MBDA'S PROGRAMS ARE THE SAME, MBDA SHOULD PROVE HELPFUL IN ASSISTING 8(A) FIRMS MAKE THE TRANSITION FROM DEPENDENCE ON FEDERAL PROCUREMENT PROGRAMS TO MAKING IT IN THE MARKETPLACE. I AM CONFIDENT THAT OTHER FEDERAL AGENCIES WILL MAKE SIMILAR COOPERATIVE EFFORTS IN CONNECTION WITH OUR ACTIVITIES IN THE CABINET COUNCIL ON COMMERCE AND TRADE.

WITH ME TODAY ARE CARLOS CAMPBELL, ASSISTANT SECRETARY FOR ECONOMIC DEVELOPMENT, AND VICTOR RIVERA, DIRECTOR OF MBDA, WHO WILL BE HAPPY TO ANSWER ANY SPECIFIC QUESTIONS ABOUT THE TRANSITIONAL PROGRAM.

THANK YOU.

The CHAIRMAN. Thank you very much, Mr. Secretary. Jim?

**STATEMENT OF HON. JAMES C. SANDERS, ADMINISTRATOR,
SMALL BUSINESS ADMINISTRATION**

Mr. SANDERS. Mr. Chairman and members of the committee, I would like to start off by thanking you, Mr. Chairman, for your constant support in the very difficult transitions we are trying to make in the SBA to bring it into the 1980's and respond to the kinds of problems we have in this decade. Particularly, I would like to thank you for your support in solving these problems that are left to us in developing minority businesses, which I know you and I share as a priority goal.

I appreciate the opportunity to discuss with the committee the Small Business Administration's efforts to broaden assistance to small minority business enterprise as a whole.

It is a pleasure for me, of course, to join here with the Secretary of the Department of Commerce because their strong support is absolutely essential in this effort. I believe the joint appearance before the committee is indicative of our cooperative effort which the Reagan administration is implementing to assist minority business.

Together, the SBA and the Department of Commerce provide the most substantive programs in the government for the benefit of disadvantaged businesses. We have come a long way with these programs and are frankly optimistic about their potential for the future.

The Reagan administration fully supports these programs and has in fact initiated new goals and directions for all Federal agencies. As the Secretary indicated, a new executive order is to be signed shortly to implement the initiatives announced by the President last December. That executive order will, for the first time, provide important oversight functions for the President's Cabinet, and I think that the Secretary has responded to that and outlined the responsibility of the Cabinet Council on Commerce and Trade.

Procuring agencies will be encouraged by the President himself to give careful consideration, when possible, to awarding contracts to minority-owned firms. A memorandum to this effect to the heads of all agencies and the directors of the offices of small and disadvantaged business utilization has been prepared for the President's signature.

That memorandum will also address the need for agencies to consider those minority firms which have completed their participation in the section 8(a) program and are soon to exit.

You know, Mr. Chairman, it is not my desire to rehash a lot of history in the SBA's minority business programs, but I would like to demonstrate to this committee the administration's strong commitment to the minority small businesses and to minority businesses as a whole.

Let me say, first of all, that I strongly believe in the mechanisms and the tools which the Congress has provided through the 8(a) program to assist minority small business. While competition is the lifeblood of our economy, I think we all recognize that special ef-

forts must be undertaken to assist individuals in our society who have traditionally been denied access to the marketplace.

Through the sole-source contracting provisions of 8(a), together with the management and technical assistance envisioned in section 7(j), and the cooperation and the resources of other Federal Government agencies such as the Department of Commerce, we can help a broad spectrum of socially and economically disadvantaged individuals move toward the economic mainstream.

This, Mr. Chairman, is what is at the heart of the administration's commitment to minority business. Our efforts and all of our actions with regard to the SBA's 8(a) program stem from a strong conviction that program benefits should be available to more individuals than have participated in the past.

This is a program which is intended to provide the opportunity for business advancement to the maximum practicable number of disadvantaged entrepreneurs over a limited period of time.

Now, Mr. Chairman, let me reemphasize the three critically important elements in the last sentence which provide the philosophical basis for our implementation of this program.

First, the 8(a) program is designed to provide an opportunity for access to sole-source government contracts, business development expense, advance payments, management and technical assistance; in other words, an opportunity for access to important business development tools.

As one 8(a) firm president recently described it, 8(a) provides his firm with a "passport" into new markets which otherwise would be closed to him. I believe it is this opportunity that most small minority business operators are looking for. And, most minority entrepreneurs do not expect that 8(a) participation provides guaranteed success. They recognize that the success or the failure of their enterprise rests squarely on their shoulders. We can provide them with these important tools, but we cannot build the business for them.

Second, our aim is to provide this opportunity to the broadest possible number of small minority businesses. In his December statement, the President set the goal for assisting in the creation and development of 60,000 minority businesses over the next 10 years. The 8(a) program benefits must, therefore, be made available to a greater number of firms. Toward that end, I have already announced and, last week, communicated in no uncertain terms to all the SBA's district directors who were assembled here in Washington, my goal of certifying 500 new firms as 8(a) by April 1, 1984.

Very often my duties require my presence in many parts of the country, Mr. Chairman. As you are aware, when one leaves the atmosphere of Washington, one does acquire a different perspective. Whenever I am on the road, individual minority entrepreneurs express to me their interest in the 8(a) program and their frustration in attempts to become certified.

Mr. Chairman, you and I have discussed this problem, and I have discussed it with other members of this committee and the Congress who are rightfully upset that only a small fraction of minority businesses receive the benefits of the 8(a) program participation. However, we cannot just certify every business which applies if we

do not have the confidence that we can provide the necessary tools for their development.

So this leads to the third important element in the 8(a) program: The opportunities it provides cannot continue indefinitely to a relatively small number of firms.

Congress took a courageous and important action by passing Public Law 96-481 in October 1980. This law required the SBA to establish a fixed period of program participation for all 8(a) firms. It was this recognition that firms should be given an opportunity, but one that was not unlimited, which sets the stage for providing program benefits to the greatest number of firms.

Federal procurement dollars are limited, and the competition for those dollars is fierce. We cannot expand the number of participants beyond reasonable expectation of providing these firms with adequate support. It would be the unkindest and cruelest action to heighten expectations without being able to deliver.

That, Mr. Chairman, is why graduation is important. Without firms leaving the program, we cannot expand our efforts to a greater number of firms.

Let me reiterate my commitment to expand the portfolio by 500 firms over the next year. I am serious about this, and I hope you will hold me accountable.

However, this will not happen without some changes in SBA procedures. I know many committee members are concerned about the length and complexity of our application process. Senator Nunn has, for instance, told us of instances in Georgia where unnecessary delays have occurred and unnecessary information has been required.

I have recently issued instructions to the field streamlining the application procedures and dispensing with the time-consuming tasks which detract from the time spent on processing applications. I have established realistic but strict time frames for this process. The entire process is expected at this time now to take a maximum of 70 days, compared with the estimated average of over 6 months.

Mr. Chairman, I believe we have dealt successfully with many of the major problems with which this program was confronted. No longer does the program suffer from the infiltration of "front" companies, scandalous abuse of advance payments and business development expense, and ill-defined goals and purposes.

We have been able to execute and administer over \$8 billion in Government contracts since the program began. We now have an opportunity to turn our attention to develop and refine our standards, our goals, and our procedures, to improve our management, provide for equitable treatment of all firms, and expand program participation.

Now, Mr. Chairman, Secretary Baldrige has discussed some of the new governmentwide initiatives which he has undertaken and which we have jointly developed. But I would just like to mention two important aspects of this new endeavor.

First, through the interagency agreement signed by the Secretary and me last year, the Minority Business Development Agency will be assisting minority firms in preparing applications for 8(a) participation.

I have directed our district office managers to develop a positive working arrangement with local minority business development centers that are funded by the MBDA to insure that this occurs.

And, as the Secretary has alluded, many of the 8(a) firms which have been with us for a long period of time will be leaving the program over the next 2 years. Although we anticipate that the number of firms with fixed program participation terms of 2 years or less will receive extensions, the exit of over 300 firms is anticipated and, indeed, will allow the room necessary for the new participants.

We do not intend, however, to abandon the exiting firms. SBA has made a sizable investment in many of these minority businesses. That is an investment of the taxpayers, an investment which we must protect and foster. So that is why we are so strong in this partnership with the Department of Commerce and the Minority Business Development Agency.

Through this partnership, we will work cooperatively to insure that a section 8(a) firm is eased into the free marketplace through a comprehensive transition program. SBA has assigned, on a full-time basis, a member of the Senior Executive Service to implement this plan, and we know that top priority has been given to this effort by Secretary Baldrige.

SBA will be providing 8(a) firm profiles, as the Secretary outlined, and MBDA personnel and their funded organizations will follow up with the kinds of services that the Secretary outlined.

Mr. Chairman, I am hopeful that this coordinated effort with Commerce will be of great benefit to the minority firms who participate. Coordination with and support of all the Federal agencies and departments will be critical to the success of these programs.

In fact, if the Government is to achieve the lofty purposes set forth in SBA's enabling legislation and President Reagan's statement, we need the assistance and cooperation not only of the Federal sector but also of State and local governments, trade associations, chambers of commerce, and the entire private sector.

These elements of the American economic system must play an important role in our efforts to bring minority businesses into the mainstream. We must all work together in a coordinated effort to assist minorities in overcoming these barriers to business ownership and development. Only with their total participation and involvement will we be able to permanently destroy these barriers and contribute to the day when these special programs will no longer be needed.

I would like to recap, Mr. Chairman, what we think we have outlined as specific goals for this administration in developing this comprehensive and coordinated plan to assist minority businesses, including the 8(a) firms:

First of all, to reiterate, the President announced his goals, as the Secretary outlined, in his December 17 statement.

Second, an Executive order will follow providing the mechanisms ensuring the implementation of the goals.

As already stated by Secretary Baldrige, the minority business development issues are elevated to the Cabinet Council.

A Presidential memorandum is being recommended to be issued to all procurement agencies concerning the graduating 8(a) firms

and the procurement goals that these agencies have, urging their cooperation with these graduates.

A coordinated transition program for 8(a) firms through the combined resources, of course, of the MBDC and the 65 SBA district offices;

Again, a goal of certifying 500 new 8(a) firms by April 1, 1984;

Expediting and simplifying the certification process, which I already mentioned;

And, last, we have developed, I think at the last Cabinet Council meeting, a program that will involve an ad hoc committee on subcontracting procedures, which is very important to the graduates of the 8(a) program, and it will include some of the principal agencies of the Federal Government.

With the Cabinet Council's direct involvement, we will continue to evaluate the progress and develop other steps appropriate to insure that minority businesses are given an opportunity to become competitively viable.

In conclusion, let me once again thank you for the opportunity to appear here today. Attached to my statement are several charts which set forth various statistical data on the 8(a) firms, contract dollars, and total procurement dollars, and total minority business population.

I will be pleased to answer any questions that you may have.

Thank you.

[The prepared statement of Mr. Sanders follows:]



STATEMENT OF
JAMES C. SANDERS, ADMINISTRATOR
SMALL BUSINESS ADMINISTRATION
BEFORE THE
COMMITTEE ON SMALL BUSINESS
UNITED STATES SENATE

MARCH 24, 1983

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I APPRECIATE THIS OPPORTUNITY TO DISCUSS WITH THE COMMITTEE THE SMALL BUSINESS ADMINISTRATION'S EFFORTS TO BROADEN ASSISTANCE TO SMALL MINORITY BUSINESS ENTERPRISE. IT IS A PLEASURE FOR ME TO BE HERE WITH THE SECRETARY OF THE DEPARTMENT OF COMMERCE. I BELIEVE THIS JOINT APPEARANCE BEFORE THE COMMITTEE IS INDICATIVE OF THE COOPERATIVE EFFORT WHICH THE REAGAN ADMINISTRATION IS IMPLEMENTING TO ASSIST MINORITY BUSINESS. TOGETHER, SBA AND THE DEPARTMENT OF COMMERCE PROVIDE THE MOST SUBSTANTIVE PROGRAMS IN GOVERNMENT FOR THE BENEFIT OF DISADVANTAGED BUSINESSES. WE HAVE COME A LONG WAY WITH THESE PROGRAMS AND ARE, FRANKLY, EXCITED ABOUT THEIR POTENTIAL FOR THE FUTURE.

THE REAGAN ADMINISTRATION FULLY SUPPORTS THESE PROGRAMS AND HAS, IN FACT, INITIATED NEW GOALS AND DIRECTIONS FOR ALL FEDERAL AGENCIES. AS THE SECRETARY INDICATED A NEW EXECUTIVE ORDER IS TO BE SIGNED SHORTLY TO IMPLEMENT THE

INITIATIVES ANNOUNCED BY THE PRESIDENT LAST DECEMBER. THAT EXECUTIVE ORDER WILL, FOR THE FIRST TIME, PROVIDE IMPORTANT OVERSIGHT FUNCTIONS FOR THE PRESIDENT'S CABINET. THE CABINET COUNCIL ON COMMERCE AND TRADE WILL BE RESPONSIBLE FOR ENSURING THAT INCREASED PROCUREMENT GOALS ARE MET AND THAT BOTH NEW AND EXISTING PROGRAMS WORK IN THE MANNER INTENDED. AGENCIES WILL BE HELD ACCOUNTABLE TO THE PRESIDENT AND HIS TOP ADMINISTRATORS FOR EXECUTION OF THESE INITIATIVES.

PROCURING AGENCIES WILL BE ENCOURAGED BY THE PRESIDENT HIMSELF TO GIVE CAREFUL CONSIDERATION, WHEN POSSIBLE, TO AWARDING CONTRACTS TO MINORITY-OWNED FIRMS. A MEMORANDUM TO THIS EFFECT TO THE HEADS OF ALL AGENCIES AND THE DIRECTORS OF THE OFFICES OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION HAS BEEN PREPARED FOR THE PRESIDENT'S SIGNATURE. THE MEMORANDUM WILL ALSO ADDRESS THE NEED FOR AGENCIES TO CONSIDER THOSE MINORITY FIRMS WHICH HAVE COMPLETED THEIR PARTICIPATION IN THE SECTION 8(A) PROGRAM OR ARE SOON TO EXIT THE PROGRAM.

MR. CHAIRMAN, IT IS NOT MY DESIRE TO REHASH A LOT OF HISTORY ABOUT SBA'S MINORITY BUSINESS PROGRAMS, BUT RATHER TO CONVINCE THIS COMMITTEE OF THIS ADMINISTRATION'S STRONG COMMITMENT TO MINORITY BUSINESS.

LET ME SAY FIRST OF ALL THAT I STRONGLY BELIEVE IN THE MECHANISMS AND TOOLS WHICH THE CONGRESS HAS PROVIDED THROUGH THE 8(A) PROGRAM TO ASSIST MINORITY SMALL BUSINESS. WHILE COMPETITION IS THE LIFE BLOOD OF OUR ECONOMY, IT HAS LONG BEEN RECOGNIZED THAT SPECIAL EFFORTS MUST BE UNDERTAKEN TO ASSIST THOSE INDIVIDUALS IN OUR SOCIETY WHO HAVE TRADITIONALLY BEEN DENIED ACCESS TO THE BENEFITS OF OUR ECONOMIC SYSTEM. THROUGH THE SOLE-SOURCE CONTRACTING PROVISIONS OF SECTION 8(A), TOGETHER WITH THE MANAGEMENT AND TECHNICAL ASSISTANCE ENVISIONED BY SECTION 7(J), AND THE COOPERATION AND RESOURCES OF THE OTHER FEDERAL GOVERNMENT AGENCIES, MOST NOTABLY THE DEPARTMENT OF COMMERCE, WE CAN HELP A BROAD SPECTRUM OF SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS MOVE TOWARD THE ECONOMIC MAINSTREAM.

THIS, MR. CHAIRMAN, IS WHAT IS AT THE HEART OF THIS ADMINISTRATION'S COMMITMENT TO MINORITY BUSINESS. OUR EFFORTS AND ALL OF OUR ACTIONS WITH REGARD TO SBA'S 8(A) PROGRAM STEM FROM A STRONG CONVICTION THAT PROGRAM BENEFITS SHOULD BE AVAILABLE TO MANY MORE INDIVIDUALS THAN HAVE PARTICIPATED IN THE PAST. THIS IS A PROGRAM WHICH IS INTENDED TO PROVIDE THE OPPORTUNITY FOR BUSINESS ADVANCEMENT TO THE MAXIMUM PRACTICABLE NUMBER OF DISADVANTAGED ENTREPRENEURS OVER A LIMITED PERIOD OF TIME.

MR. CHAIRMAN, LET ME RE-EMPHASIZE THE THREE CRITICALLY IMPORTANT ELEMENTS OF MY LAST SENTENCE WHICH PROVIDE THE PHILOSOPHICAL BASIS FOR OUR IMPLEMENTATION OF THE PROGRAM. FIRST, THE 8(A) PROGRAM IS DESIGNED TO PROVIDE AN OPPORTUNITY FOR ACCESS TO SOLE SOURCE GOVERNMENT CONTRACTS, BUSINESS DEVELOPMENT EXPENSE, ADVANCE PAYMENTS, MANAGEMENT AND TECHNICAL ASSISTANCE - IN OTHER WORDS, AN OPPORTUNITY FOR ACCESS TO IMPORTANT BUSINESS DEVELOPMENT TOOLS. AS ONE 8(A) FIRM PRESIDENT RECENTLY DESCRIBED IT, 8(A) PROVIDES HIS FIRM WITH A "PASSPORT" INTO NEW MARKETS WHICH OTHERWISE WOULD BE CLOSED TO HIM. I BELIEVE IT IS THIS OPPORTUNITY THAT MOST SMALL MINORITY BUSINESS OPERATORS ARE LOOKING FOR. AND, MOST MINORITY ENTREPRENEURS DO NOT EXPECT THAT 8(A) PARTICIPATION PROVIDES GUARANTEED SUCCESS -- THEY RECOGNIZE THAT THE SUCCESS OR FAILURE OF THEIR ENTERPRISE RESTS SQUARELY ON THEIR SHOULDERS. WE CAN PROVIDE THEM WITH THESE IMPORTANT TOOLS BUT WE CANNOT BUILD THE BUSINESS FOR THEM.

SECOND, OUR AIM IS TO PROVIDE THIS OPPORTUNITY TO THE BROADEST POSSIBLE NUMBER OF SMALL MINORITY BUSINESSES. IN HIS DECEMBER STATEMENT ON MINORITY BUSINESS THE PRESIDENT SET A GOAL OF DIRECTLY ASSISTING IN THE CREATION AND DEVELOPMENT OF 60,000 MINORITY BUSINESSES OVER THE NEXT

TEN YEARS. THE 8(A) PROGRAM BENEFITS MUST, THEREFORE, BE MADE AVAILABLE TO A GREATER NUMBER OF FIRMS. TOWARD THAT END I HAVE ALREADY ANNOUNCED AND LAST WEEK COMMUNICATED IN NO UNCERTAIN TERMS TO ALL SBA'S DISTRICT DIRECTORS, MY GOAL OF CERTIFYING 500 NEW FIRMS AS 8(A) BY APRIL 1, 1984.

MR. CHAIRMAN, VERY OFTEN, MY DUTIES REQUIRE MY PRESENCE IN MANY DIFFERENT PARTS OF THE COUNTRY - AND AS YOUR ARE AWARE WHEN ONE LEAVES THE ATMOSPHERE OF WASHINGTON - ONE DOES ACQUIRE A DIFFERENT PERSPECTIVE. WHENEVER I AM ON THE ROAD, INDIVIDUAL MINORITY ENTREPRENEURS HAVE EXPRESSED TO ME THEIR INTEREST IN THE 8(A) PROGRAM AND THEIR FRUSTRATION IN THEIR ATTEMPTS TO BECOME CERTIFIED. MR. CHAIRMAN, YOU AND I HAVE DISCUSSED THIS PROBLEM, AND I HAVE DISCUSSED THIS PROBLEM, WITH OTHER MEMBERS OF THIS COMMITTEE AND THE CONGRESS WHO ARE RIGHTFULLY UPSET THAT ONLY A SMALL FRACTION OF MINORITY BUSINESS RECEIVE THE BENEFITS OF 8(A) PROGRAM PARTICIPATION. HOWEVER, WE CANNOT JUST CERTIFY EVERY BUSINESS WHICH APPLIES IF WE DO NOT HAVE THE CONFIDENCE THAT WE CAN PROVIDE THE NECESSARY TOOLS FOR THEIR DEVELOPMENT.

THIS LEADS TO THE THIRD IMPORTANT ELEMENT OF THE 8(A) PROGRAM: THE OPPORTUNITIES IT PROVIDES CANNOT CONTINUE INDEFINITELY TO A RELATIVELY SMALL NUMBER OF FIRMS.

THE CONGRESS TOOK A COURAGEOUS AND IMPORTANT ACTION BY PASSING P.L. 96-481 IN OCTOBER 1980. THIS LAW REQUIRED SBA TO ESTABLISH A FIXED PERIOD OF PROGRAM PARTICIPATION FOR ALL 8(A) FIRMS. IT WAS THIS RECOGNITION THAT FIRMS SHOULD BE GIVEN AN OPPORTUNITY, BUT ONE THAT WAS NOT UNLIMITED, WHICH SETS THE STAGE FOR PROVIDING PROGRAM BENEFITS TO THE GREATEST NUMBER OF FIRMS.

FEDERAL PROCUREMENT DOLLARS ARE LIMITED AND THE COMPETITION FOR THOSE DOLLARS IS FIERCE. WE CANNOT EXPAND THE NUMBER OF PARTICIPANTS BEYOND OUR REASONABLE EXPECTATION OF PROVIDING THESE FIRMS WITH ADEQUATE SUPPORT. IT WOULD BE THE UNKINDEST AND CRUELEST ACTION TO HEIGHTEN EXPECTATIONS WITHOUT BEING ABLE TO DELIVER. THAT, MR. CHAIRMAN, IS WHY GRADUATION IS IMPORTANT. WITHOUT FIRMS LEAVING THE PROGRAM WE CANNOT EXPAND OUR EFFORTS TO A GREATER NUMBER OF FIRMS.

LET ME REITERATE MY COMMITMENT TO EXPAND THE 8(A) PORTFOLIO BY 500 FIRMS OVER THE NEXT YEAR. I AM SERIOUS ABOUT THIS AND I HOPE YOU WILL HOLD ME ACCOUNTABLE AS I WILL BE HOLDING THE SBA FIELD OFFICES ACCOUNTABLE FOR ACHIEVING THIS GOAL.

HOWEVER, THIS WILL NOT HAPPEN WITHOUT SOME CHANGES IN SBA PROCEDURES. I KNOW MANY COMMITTEE MEMBERS ARE CONCERNED ABOUT THE LENGTH AND COMPLEXITY OF OUR APPLICATION PROCESS.

SENATOR NUNN HAS FOR EXAMPLE, TOLD US OF INSTANCES IN GEORGIA WHERE UNNECESSARY DELAYS HAVE OCCURRED AND POSSIBLY UNNECESSARY INFORMATION HAS BEEN REQUIRED.

I HAVE RECENTLY ISSUED INSTRUCTIONS TO THE FIELD STREAMLINING APPLICATION PROCEDURES, AND DISPENSING WITH TIME-CONSUMING TASKS WHICH DETRACT FROM TIME SPENT ON PROCESSING APPLICATIONS. I HAVE ESTABLISHED REALISTIC, BUT STRICT, TIME FRAMES FOR THIS PROCESS. THE ENTIRE PROCESS IS EXPECTED TO TAKE A MAXIMUM OF 70 DAYS, COMPARED WITH THE ESTIMATED CURRENT AVERAGE OF OVER SIX MONTHS.

MR. CHAIRMAN, I BELIEVE WE HAVE DEALT SUCCESSFULLY WITH MANY OF THE MAJOR PROBLEMS WITH WHICH THIS PROGRAM WAS CONFRONTED. NO LONGER DOES THE PROGRAM SUFFER FROM INFILTRATION OF "FRONT" COMPANIES, SCANDALOUS ABUSE OF ADVANCE PAYMENTS AND BUSINESS DEVELOPMENT EXPENSE, AND ILL-DEFINED GOALS AND PURPOSES. WE HAVE BEEN ABLE TO EXECUTE AND ADMINISTER OVER \$8 BILLION IN GOVERNMENT CONTRACTS SINCE THE PROGRAM BEGAN. WE NOW HAVE AN OPPORTUNITY TO TURN OUR ATTENTION TO DEVELOP AND REFINED OUR STANDARDS, GOALS, AND PROCEDURES, IMPROVE OUR MANAGEMENT,

PROVIDE FOR EQUITABLE TREATMENT OF ALL FIRMS, AND EXPAND PROGRAM PARTICIPATION.

COOPERATIVE EFFORTS THROUGHOUT GOVERNMENT

MR. CHAIRMAN, SECRETARY BALDRIGE HAS DISCUSSED SOME EXCITING NEW GOVERNMENT-WIDE INITIATIVES WHICH WE HAVE JOINTLY DEVELOPED, BUT I WOULD JUST LIKE TO MENTION TWO IMPORTANT ASPECTS OF THIS NEW COOPERATIVE ENDEAVOUR.

FIRST, THROUGH THE INTERAGENCY AGREEMENT SIGNED BY THE SECRETARY AND MYSELF LAST YEAR, THE MINORITY BUSINESS DEVELOPMENT AGENCY WILL BE ASSISTING MINORITY FIRMS IN PREPARING APPLICATIONS FOR 8(A) PROGRAM PARTICIPATION. I HAVE DIRECTED OUR DISTRICT OFFICE MANAGERS TO DEVELOP A POSITIVE WORKING ARRANGEMENT WITH LOCAL MINORITY BUSINESS DEVELOPMENT CENTERS FUNDED BY MBDA TO ENSURE THAT THIS OCCURS.

SECOND, MANY OF THE 8(A) FIRMS WHICH HAVE BEEN WITH US FOR A LONG PERIOD OF TIME WILL BE LEAVING THE PROGRAM OVER THE NEXT TWO YEARS. ALTHOUGH WE ANTICIPATE THAT A NUMBER OF FIRMS WITH FIXED PROGRAM PARTICIPATION TERM'S (FPPT) OF TWO

YEARS OR LESS WILL RECEIVE FPPT EXTENSIONS, THE EXIT OF OVER THREE HUNDRED FIRMS IS CONTEMPLATED AND, INDEED, WILL ALLOW THE ROOM NECESSARY FOR NEW PARTICIPANTS.

WE DO NOT INTEND, HOWEVER, TO ABANDON THE EXITING FIRMS. SBA HAS MADE A SIZEABLE INVESTMENT IN MANY OF THESE MINORITY BUSINESSES - AN INVESTMENT WE MUST PROTECT AND FOSTER. THAT IS WHY WE HAVE ENTERED INTO A PARTNERSHIP WITH THE DEPARTMENT OF COMMERCE AND ITS MINORITY BUSINESS DEVELOPMENT AGENCY.

THROUGH THIS PARTNERSHIP, SBA AND THE COMMERCE DEPARTMENT WILL WORK COOPERATIVELY TO ENSURE THAT A SECTION 8(A) FIRM IS EASED INTO THE FREE MARKETPLACE THROUGH A COMPREHENSIVE TRANSITION PROGRAM. SBA HAS ASSIGNED ON A FULL-TIME BASIS A MEMBER OF THE SENIOR EXECUTIVE SERVICE TO IMPLEMENT THIS PLAN, AND WE KNOW THAT TOP PRIORITY HAS BEEN GIVEN TO THIS EFFORT BY SECRETARY BALDRIGE. SBA WILL BE PROVIDING 8(A) FIRM PROFILES TO MBDA AT LEAST ONE YEAR PRIOR TO THEIR PROGRAM EXIT. MBDA PERSONNEL AND THEIR FUNDED ORGANIZATIONS WILL WORK TOGETHER WITH SBA PERSONNEL TO ASSURE CONTINUITY OF THE VARIOUS TYPES OF ASSISTANCE SO NECESSARY TO PROMOTING THE FIRM'S SUCCESS.

MR. CHAIRMAN, I AM HOPEFUL THAT THIS COORDINATED EFFORT WITH THE COMMERCE DEPARTMENT WILL BE OF GREAT BENEFIT TO THE MINORITY FIRMS WHO PARTICIPATE. COORDINATION WITH AND SUPPORT OF ALL FEDERAL AGENCIES AND DEPARTMENTS WILL BE CRITICAL TO THE SUCCESS OF THESE PROGRAMS.

IN FACT, IF THE GOVERNMENT IS TO ACHIEVE THE LOFTY PURPOSES SET FORTH IN SBA'S ENABLING LEGISLATION AND PRESIDENT REAGAN'S STATEMENT, WE NEED THE ASSISTANCE AND COOPERATION NOT ONLY OF THE FEDERAL SECTOR - INCLUDING THE CONGRESS AND THE PRESIDENT - BUT ALSO OF STATE AND LOCAL GOVERNMENTS, TRADE ASSOCIATIONS, CHAMBERS OF COMMERCE, AND THE ENTIRE PRIVATE SECTOR. THESE ELEMENTS OF THE AMERICAN ECONOMIC SYSTEM MUST PLAY AN IMPORTANT ROLE IN OUR EFFORTS TO BRING MINORITY OWNED BUSINESSES INTO THE MAINSTREAM. WE MUST ALL WORK TOGETHER IN A COORDINATED EFFORT TO ASSIST MINORITIES IN OVERCOMING THE BARRIERS TO BUSINESS OWNERSHIP AND DEVELOPMENT WHICH HAVE BEEN WITH US TOO LONG. ONLY WITH TOTAL PARTICIPATION AND INVOLVEMENT WILL WE BE ABLE TO PERMANENTLY DESTROY THOSE BARRIERS AND CONTRIBUTE TO THE DAY WHEN THESE SPECIAL PROGRAMS WILL NO LONGER BE NEEDED.

TO RECAP MR. CHAIRMAN, WE BELIEVE THIS ADMINISTRATION HAS DEVELOPED A COMPREHENSIVE AND COORDINATED PLAN TO ASSIST MINORITY BUSINESS INCLUDING 8(A) FIRMS WITH THESE MAJOR ELEMENTS:

- THE GOALS ANNOUNCED BY THE PRESIDENT IN HIS DECEMBER 17, 1982 STATEMENT.
- AN EXECUTIVE ORDER PROVIDING THE MECHANISMS TO INSURE IMPLEMENTATION OF THE PRESIDENT'S GOALS.
- ELEVATING MINORITY BUSINESS DEVELOPMENT ISSUES TO THE CABINET COUNCIL ON COMMERCE AND TRADE.
- A PRESIDENTIAL MEMORANDUM TO PROCUREMENT AGENCIES CONCERNING GRADUATING 8(A) FIRMS AND PROCUREMENT GOALS.
- A COORDINATED TRANSITION PROGRAM FOR 8(A) FIRMS THROUGH THE COMBINED RESOURCES OF THE 100 MRDCs AND THE 65 SBA DISTRICT OFFICES NATIONWIDE.

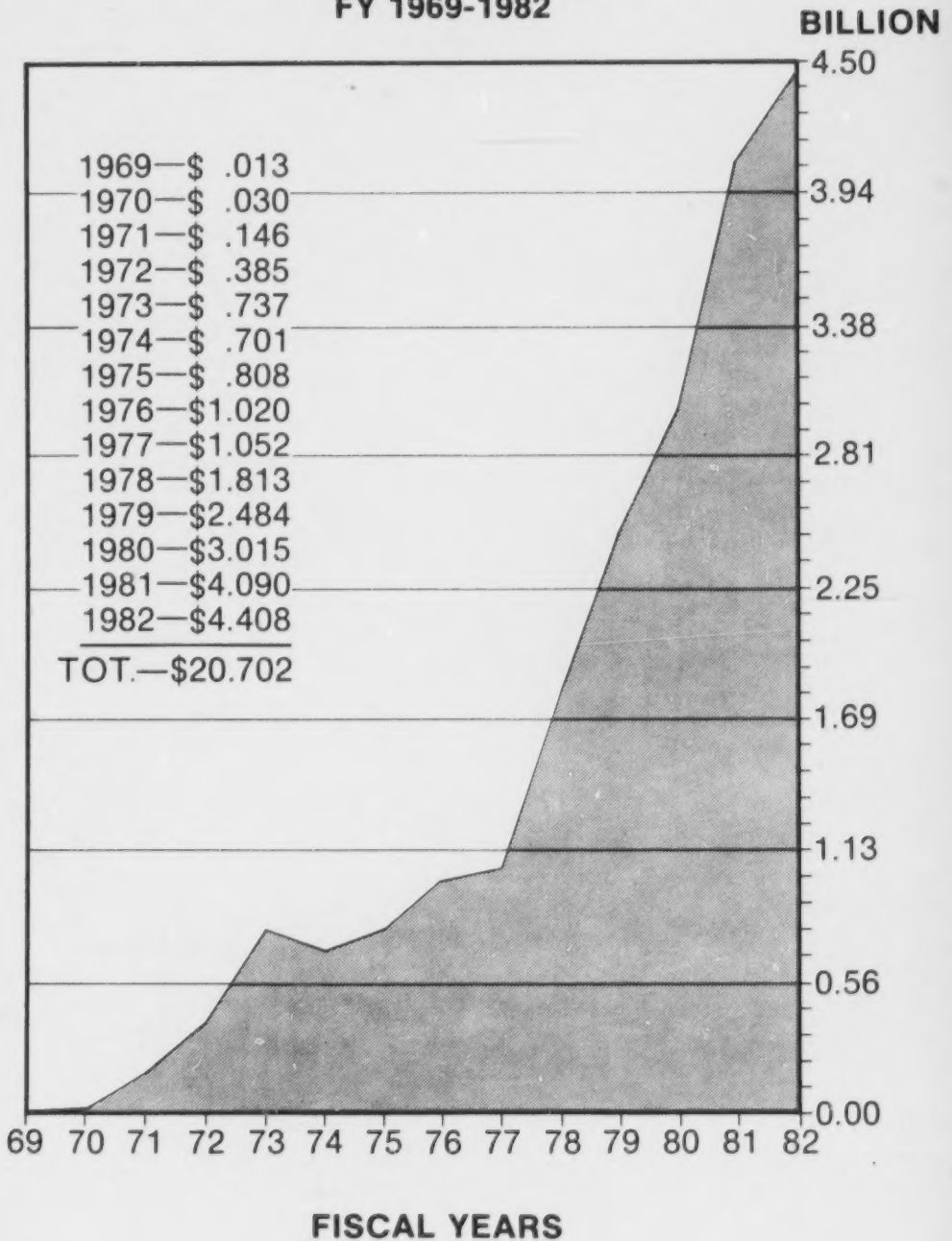
- A GOAL OF CERTIFYING 500 NEW 8(A) FIRMS BY APRIL 1, 1984.
- EXPEDITING AND SIMPLIFYING THE CERTIFICATION PROCESS FOR THE 8(A) PROGRAM.

WITH THE CABINET COUNCIL'S DIRECT INVOLVEMENT WE WILL CONTINUE TO EVALUATE PROGRESS AND DEVELOP OTHER STEPS AS APPROPRIATE TO ENSURE THAT MINORITY BUSINESSES ARE GIVEN THE OPPORTUNITY TO BECOME COMPETITIVELY VIABLE IN OUR ECONOMIC SYSTEM.

IN CONCLUSION, LET ME ONCE AGAIN STATE MY THANKS FOR THE OPPORTUNITY TO APPEAR HERE TODAY TO DISCUSS THESE EXTREMELY IMPORTANT INITIATIVES. ATTACHED TO MY STATEMENT ARE SEVERAL CHARTS WHICH SET FORTH STATISTICAL DATA ON 8(A) FIRMS, CONTRACT DOLLARS, TOTAL PROCUREMENT DOLLARS, AND TOTAL MINORITY BUSINESS POPULATION. I WILL BE PLEASED TO ANSWER ANY QUESTIONS FROM THE COMMITTEE REGARDING THE STATISTICS OR ANY OTHER ISSUES YOU MAY WISH TO DISCUSS.

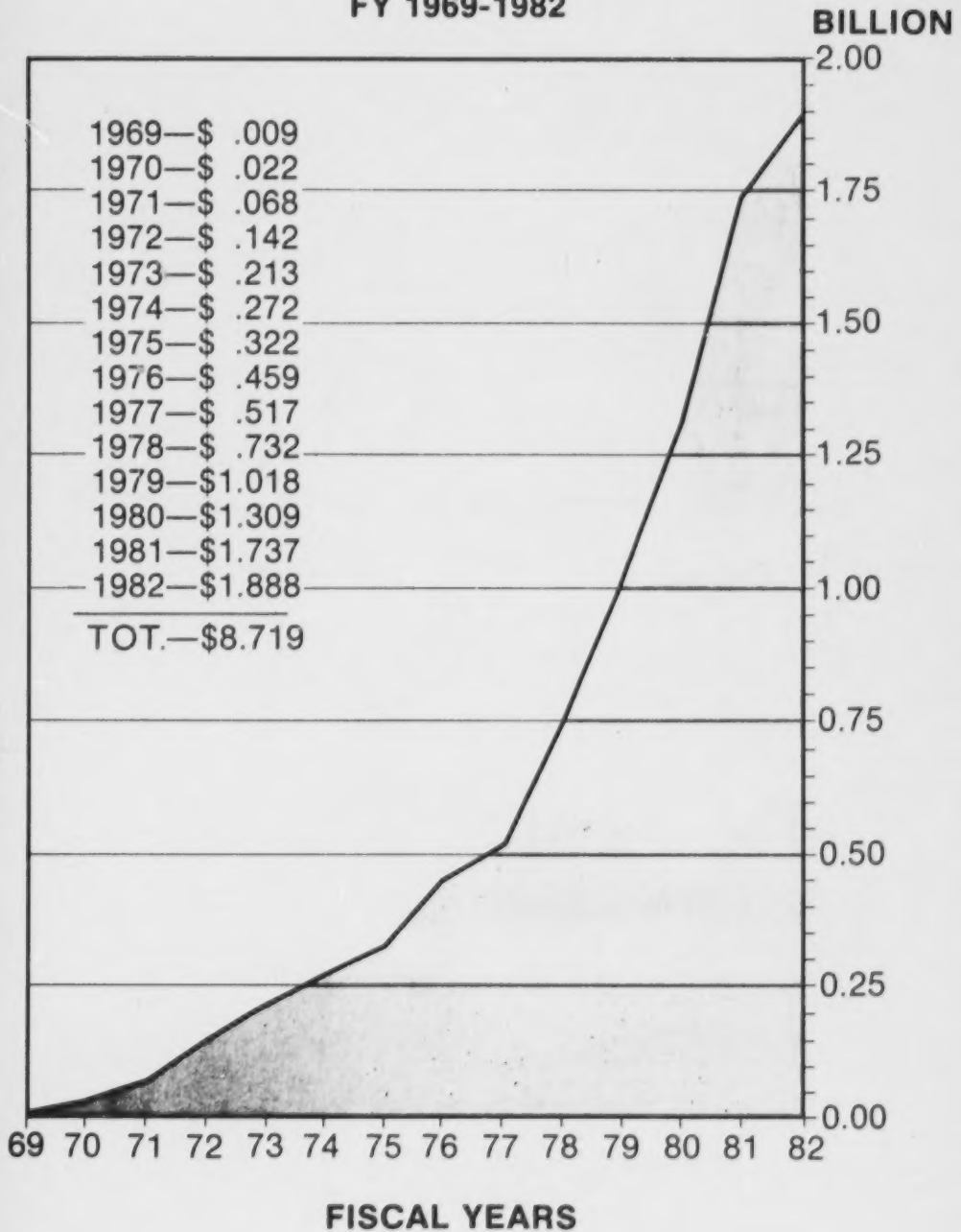
I TOTAL MINORITY PROCUREMENT

FY 1969-1982



II 8(a) PROCUREMENT

FY 1969-1982



III
COMPARATIVE DISTRIBUTIONS

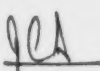
REGION	CURRENT 8(a) PORTFOLIO DISTRIBUTION	MBE POPULATION DISTRIBUTION*	TOTAL PROCUREMENT DOLLAR DISTRIBUTION
I	4.5%	2.5%	10.9%
II	7.8%	7.9%	9.2%
III	25.0%	9.1%	12.7%
IV	9.0%	20.6%	11.4%
V	10.0%	9.5%	9.9%
VI	11.1%	21.1%	10.6%
VII	3.8%	2.1%	6.4%
VIII	6.0%	1.8%	2.4%
IX	15.1%	25.0%	22.7%
X	7.7%	1.4%	3.9%

*CONSTRUCTION, MANUFACTURING
AND BUSINESS SERVICES



U.S. Small Business Administration
Washington, DC 20416

Memorandum
Office of the Administrator

Date: February 9, 1983
From: James C. Sanders 
Subject: Minority Small Business Programs: Expiration of Interim
Size Rule on February 14, 1983
To:

For your information, the attachment summarizes the experience of the 23 firms (out of the total of 1800) in the SBA "8a" sole source procurement program which is the backbone of our Minority Small Business operation. The six month "reprieve" which SBA granted from adverse rulings of the GAO and U.S. District Court expires on February 14, 1983.

Because of the priority this Administration places on small business and on minority business development, I think it is important that you have a factual basis for understanding the progress that has been accomplished in this vital program.

In granting the six month reprieve SBA was responding to the unfairness of the abrupt court rulings by allowing the 23 affected firms a transition period for obtaining more contracts under 8a. Since August, two of the 23 firms have been reclassified as small businesses. We will continue to work with the remaining 21 affected firms after February 14th to assist in their continuing successful development. Observing that the 21 firms have been in the program an average of over ten years and have been awarded collectively more than three-quarters of a billion dollars makes us optimistic about the future for most of them. Equally important, we look with enthusiasm to the addition of more new minority firms who will fill the vacancies of graduation which Congress insisted on by passage of Public-Law 96-481.

Unfortunately, there have been some emotionally charged and excessive criticisms leveled at the program which wholly distort the picture. Sadly, a few who have benefited so much from this program have engaged in inflammatory rhetoric whereas the majority have acted responsibly, understanding the course of events that has brought us this far.

It is my hope that this program will survive the self-serving statements of a few to mature into the serviceable vehicle it can be for the many.

8(A) PROGRAM HAS
AWARDED \$9 BILLION

The U.S. Small Business Administration's 8(a) program -- named after a section of the Small Business Act -- is one of the Federal Government's major assistance programs for small minority-owned companies. Since 8(a) began in 1968, \$9 billion worth of federal procurement contracts have been awarded to 8(a)'s 4,598 participants.

ORIGINALLY CONTRACT
SUPPORT ONLY

Originally, the program enacted by Congress directed SBA to give federal contract support to small firms owned by socially and economically disadvantaged persons. Acting as a prime contractor, SBA directed federal work to 8(a) participants on a noncompetitive basis.

SINCE 1978
BUSINESS DEVELOPMENT
IS ADDED

In October, 1978, Congress enacted P.L. 95-507, which redirected the program thrust: SBA was charged with helping 8(a) participants not only obtain federal work but to assist firms in becoming competitive businesses.

IN 1980 CONGRESS
ASKED FOR GRADUATION

In October, 1980, Congress enacted P.L. 96-481, which required all 8(a) contractors to negotiate a fixed program participation term -- a specific planned length of time for the firms to stay in the program before "graduation" as a private entrepreneur.

ACCOMPLISHED IN 1982

All such terms were negotiated by SBA and established in April, 1982.

EVIDENCE THAT
PROGRAM FAVORED
"THE FEW"

Congress' purpose in enacting P.L. 96-481 was plain: Too many 8(a) firms had been in the program for too long, relying on federal work for continued existence and in so doing preventing other qualified minority-owned small firms from joining in the program. Statistics show, for example, that of the 4,598 8(a) participants, only 116 had "graduated" since the beginning -- that is, only 116 firms had become viable enough to leave the program and continue in the private marketplace. According to a General Accounting Office report, 31 percent of total 8(a) contract support had gone only to 50 companies, most of which had been in the program between seven and 11 years.

FURTHER EVENTS
OF 1982

Other 8(a) developments -- which are of current concern and interest -- took place early in 1982:

GAO DECISION
STOPS SBA

On June 16, 1982, the Comptroller General of the United States (who heads the General Accounting Office, an arm of Congress) issued a decision directly and clearly affecting approximately 23 firms in the 8(a) program. In essence, the decision stated that any 8(a) firm found to be a "non-small" business by SBA size standards must be suspended from receiving new contracts. The decision did not affect ongoing contracts or options and modifications to existing contracts, or other forms of program assistance.

SBA RESPONSE

Within 48 hours, SBA filed for reconsideration of the GAO decision. On July 26, 1982, the Comptroller General reaffirmed his original decision.

DISTRICT COURT
 DECISION REINFORCES
 GAO

On June 30, 1982, one of the affected 8(a) contractors filed suit in Federal District Court, claiming SBA was denying the company contract awards because of the Comptroller General decision. The court's decision concluded that a firm that is not "small" may not receive contract awards under the 8(a) program. The 8(a) contractor is appealing this decision.

SBA RESPONSE

SBA had no choice but to adhere to these administrative and judicial decisions. But at the same time, the Agency wanted to be fair to those firms found, during proper and required size standard reviews, to be "non-small."

FAIRNESS ISSUE
 INVOLVES ALL SIDES

Indeed, throughout its administration of the 8(a) program, the Agency has strived to be fair to participants, to other small firms desiring to enter the program, to the non-minority small businesses who are foreclosed from bidding on these contracts, and, of course, to the taxpayers.

COMPASSION FOR
AFFECTED FIRMS

SBA knew it would not be fair to immediately suspend those "non-small" contractors from the program and deny them new federal contracts. Immediate suspension would have imposed undue economic hardship on most of the 23 "non-small" firms.

ADMINISTRATOR MEETS
WITH AFFECTED FIRMS

In a discussion with SBA Administrator James C. Sanders on August 6, 1982, representatives of the companies stated that their progress and considerable federal resources provided to assist them would be wasted and their very economic existence would be seriously threatened by abrupt termination of contract support.

Mr. Sanders agreed that their contentions had considerable merit.

INTERIM SIZE
STANDARD TO
HELP IN TRANSITION

Accordingly, on August 17, 1982, SBA issued an emergency size regulation to provide an alternate size standard under which most of these concerns would qualify for continued contract support. This regulation was effective for six months and expires on February 14, 1983. After this date, the current size standards again become the exclusive measure of a concern's size eligibility.

SBA'S OTHER ACTIONS
TO ASSIST AFFECTED
FIRMS

In addition to issuing the six-month emergency size standard, Administrator Sanders undertook a number of actions to assist the "non-small" 8(a) contractors:

SPECIAL TASK FORCE
AND FEDERAL
SUBCONTRACTS

- He organized a special task force including representatives of the 23 affected firms to recommend strengthening implementation of subcontracting provisions of P.L. 95-507 for the benefit of all small businesses, and especially minority-owned small businesses. The basic aim was to determine ways in which more federal subcontracts can be directed to small firms. The task force, which included representatives of the "non-small" 8(a) firms, has issued recommendations, which are being reviewed by SBA.

SIZE REVIEWS
WERE MADE

- Ordered SBA's Office of General Counsel to conduct size reviews of 8(a) participants and in so doing expedite appeals and on size standard matters.

PROMPT APPROVAL
THROUGH REGIONS

- Delegated to SBA's regional administrators the authority to approve modifications and options to existing 8(a) contracts.

ALERT OTHER AGENCIES

- Widen efforts, through SBA itself, private contractors and other federal agencies, to identify more federal contract opportunities for the "non-small" 8(a) participants.

COMMUNICATION
WITH FIRMS

- Throughout this six-month period SBA closely monitored firm progress and communicated with the affected firms and instructed field offices to expedite contract actions with these firms.

STATUS OF FIRMS
AS OF
FEBRUARY 15, 1983

After February 14, 1983, 8(a) participants found to be "non-small" are ineligible for new contracts. But any such firm can continue work on present contracts and receive modifications and options to existing contracts.

CONTINUING
OPPORTUNITIES FOR
AFFECTED FIRMS

These 8(a) firms also are eligible to do subcontracting work for other firms still in 8(a). They are eligible for SBA management assistance until the expiration of their fixed program participation plans.

RIGHTS TO
SIZE APPEAL

Any 8(a) firm determined to be "non-small" has the right to undertake a new size appeal (two of the original "non-small" firms have done so and were subsequently ruled to be "small;" another 8(a) firm previously "small" was ruled to be "non-small.")

SUBCONTRACTS
PLUS MBDA
ASSISTANCE

SBA has encouraged other 8(a) firms to use the experience and expertise of the "non-small" firms by subcontracting with them when possible. The "non-small" companies will further benefit from a private analysis of their business needs; this analysis was commissioned by SBA. An SBA/Department of Commerce interagency agreement provides for possible government assistance through the Minority Business Development Agency.

EXPERIENCE OF FIRMS
IN 8(A)

It is pertinent to note that the 21 8(a) contractors still classified as "non-small" have fared well over the years:

21 FIRMS RECEIVED
OVER \$750 MILLION

-- Most of the 21 have been in the program since the early 1970s, and during their overall participation (averaging 11 years) have received a total of about three quarters of a billion dollars worth of contracts.

NEW CONTRACTS
SINCE AUGUST

-- Since the six-month special size standard went into effect last August 17, the 23 companies have received 29 contracts worth about \$17 million. As noted above, they can continue to gain new work on such contracts through options and modifications.

ACCESS TO 8(A)
BY OTHER FIRMS

The exit of these firms from the 8(a) program, of course, will help the entry of other eligible small minority-owned firms. Opening 8(a) to a larger number of eligible entrepreneurs is only fair, and in accord with federal statutes and SBA objectives.

NEW ENTRANTS

SBA's goal is to certify at least 500 new participants by Spring, 1984.

A FAIR PROGRAM
FOR ALL

SBA is pleased with the progress which has been made by many 8(a) firms during their program participation. However, in order to stay within the mandate of the law and to make the wisest and most beneficial use of limited program resources, 8(a)'s primary aim must continue to be to provide a boost upward for the benefit of the greater number of firms.

The CHAIRMAN. Thank you very much, Mr. Administrator.

I have several questions for the Secretary and for the Administrator. However, if there is anybody in the audience who would like to direct a question to either of these two gentlemen, just so that we make it very clear that this is not some sort of an effort between this Republican Senator and this Republican Secretary and Administrator, respectively, of the administration, if you will write it down on a piece of paper and sign your name to it, I will make sure that the question goes across the table here.

Mr. Secretary, I agree that elevating these issues to the Cabinet Council is an important step. It sets the tone and says that this administration is making minority business development a priority concern.

How do you envision the Cabinet Council dealing with the minority business issue?

Mr. BALDRIGE. One of the reasons this came about—not the only one—was because of our experience on the IAC. I found out, after being chairman of that, that essentially, like a lot of things in Government, it is a coordinating group, and everything is done on a voluntary basis. You ask people to set goals, and so forth, and there is no way to make sure that they are fully implemented.

On the Cabinet Council on Commerce and Trade, when it is at that level, you have the direct ability, if it is necessary, to ask the President or make a recommendation to the President and have him come out with a memo. Now, usually, you do not need that, but it is there if you do.

We plan to take up, once every quarter, four times a year, and discuss at the Cabinet level, at this Council, how the various programs are going, the whole effort for small and minority businesses, including the procurement goals inside the U.S. Government.

We have fallen behind—that is another reason I wanted to elevate this—somewhat in our first quarter procurement goals. We have a goal of 10-percent increase for minority procurement. We were not able to reach that in the first quarter. Through the Cabi-

net Council mechanism yesterday, we made it plain that we want that made up and we want the year's goal achieved, and I am sure we will be able to do it.

Also, at the meeting yesterday, Mr. Chairman, we agreed at the Cabinet Council that MBDA would establish these demonstration programs for the 8(a) firms that have been—graduated is not the right word—because of size, they have outgrown—

Mr. SANDERS. They are no longer qualified.

Mr. BALDRIGE. They are no longer qualified, legally qualified, in a way because of their own success. They have outgrown the program. We want to make sure that MBDA has the best possible top-level kind of advice for them. Control Data is running this particular program, and it will be a demonstration program of marketing, finance, and productivity to help these firms compete.

We also decided to ask the Office of Federal Procurement to make a policy change. Right now—this does not sound that large, but it is larger than it sounds—right now, Government contractors that subcontract to minority firms have a checkoff box, and they can get credit for it. But these firms that have had to leave the 8(a) program are still minority firms, but they are a bit larger because of their own success, and there was no way to include them in this.

So we are asking for a very large-size change, to put another box in so that they can get credit for doing that.

We have asked MBDA, through the Cabinet Council, to encourage large Federal agencies to sign multiyear blanket basic ordering agreements with these firms that have now outgrown the 8(a) program, and we are asking them to do that before these firms leave the program, so that while they will not have a fixed contract for a certain amount specific, they will have an open-ended contract and be able to count on some stability in orders from the Government.

We have asked the MBDA also to investigate if there is any kind of limited competition contracts for these recent firms that have left the 8(a) program. As Jim Sanders mentioned, we will have a subcontracting committee set up to encourage present 8(a) participants to subcontract work to those who have recently grown out of the program.

I think those are a very good start for our first CCCT meeting on this. We also took up the Federal procurement goals that I mentioned earlier. Once every 3 months, Mr. Chairman, we will recheck and see what the progress has been.

The CHAIRMAN. Mr. Secretary, when will the Executive order be signed and the Presidential memorandum to procuring agencies be issued?

Mr. BALDRIGE. Within 2 weeks is my estimate.

The CHAIRMAN. The President's statement sets a Federal procurement goal of \$15 billion over the next 3 fiscal years, or \$5 billion a year. That means an increase in fiscal year 1983 of \$600 million in contracts awarded to minority firms over the last year.

Now, are you going to be able to achieve that? We have already heard that the figures for the first quarter are down, but do you feel it can be achieved within the year's time?

Mr. BALDRIGE. Yes, sir.

The CHAIRMAN. In line with providing new opportunities for 8(a) firms to participate in the SBA program, there will be a need to expand the pool of 8(a) contracts available to offer to SBA. Will the Cabinet Council pay particular attention to increasing the number of 8(a) contracts offered by the agencies?

Mr. BALDRIGE. Yes, we will. That is one of the advantages of having the Administrator and the other Cabinet departments concerned all in the same room, talking about the same thing.

The CHAIRMAN. In regard to the postgraduate program for 8(a) firms, I was intrigued by your comments during the course of your testimony. A great deal of attention has been focused recently on firms exiting the 8(a) program and whether they will survive.

As I understand it, your program is designed to ease the transition from the 8(a) program and sole-source contracts. Could you elaborate a little bit on that, and what it will mean for minority businesses which are reaching the end of their tenure in the 8(a) program?

For example, you mentioned the checkoff box. I wonder if you could elaborate on that. I think that is a substantial change in the sense of the opportunity it affords to that exiting firm.

Mr. BALDRIGE. Yes. Well, on the checkoff box, we are requesting that; we do not have that all the way through the U.S. Government yet, but let us say we will expedite that as quickly as possible. In my opinion, I do not think that change should be difficult to get through, but I cannot say that it is through yet.

Essentially, the problems of the firms that have grown under the 8(a) and now are legally beyond the size limit that they can be considered small businesses for this purpose, those firms have a difficult problem. I do not think there is any question about it.

In this area, the Government can take some of the actions that I have mentioned. We can ask, as we have, the Defense Department—and Deputy Secretary Thayer has done this personally—to write the 100 largest defense subcontractors and say, Here are people who have been so successful that they have grown out of the 8(a) program, and we wish you would take a close look at their talents and skills and see what you can do to help in this effort.

The ability of a firm to make a change from mostly Government work to a substantial amount of private work does in some cases take some different skills. Under our MBDA program, we are making sure that we have the best demonstration programs that we can work up with the best people in charge to help them in their marketing, financing, and productivity problems. That is another thing that Government can do and should do.

I think again, as I mentioned, if we can get agencies throughout the Government to understand this problem and give these firms, or whichever firms are appropriate under this, multiyear blanket basic ordering contracts, that would be very helpful. They are open-end contracts, and nobody would expect them to be any specific amount, but you are on the books, and you would expect to get some work.

I think those would be the major Government efforts.

In the private sector, we as a government can work with outfits like the National Minority Suppliers Council. Now, I think a great deal of that effort. Those are very able men who would not be

doing this if they did not have their hearts in it, and I have to believe that the fact that they have set up a special committee to help in this program at our request is an important step, because what we are trying to do—and I think most of the 8(a) firms would agree with this—is to actually enable them to become competitive in the private sector so they do not have to depend on the Government to do it. These are steps in that direction.

The CHAIRMAN. Mac, I am pleased to hear of the cooperation that is going on at the highest level. On the other hand, as a matter of history—not under your administration or Jim's administration—one of the problems really has been in the usual turf battles at the lower levels.

My question is, Have the orders gone out from you and Jim to the MBDA field offices and the SBA field offices instructing them to work in conjunction? That's where the problem has existed where there was total division and a lack of communication. But, indeed, I think you envisage this as really being one overall program and one overall objective.

Mr. BALDRIGE. Well, I do. Believe me, I have heard the term "turf battle" in Washington before. [Laughter.]

But in this context, I really do not know of one. While I may have overused MBDA and underused SBA, because I am more familiar with MBDA, I cannot imagine anything but a cooperative effort, and I will guarantee you that if there is not a cooperative effort, I will make sure that our side of it will be one.

But perhaps Jim or Victor Rivera could talk on that question. They are closer to any potential conflicts.

The CHAIRMAN. Jim?

Mr. SANDERS. Well, I agree with the Secretary. Certainly from our side, I have told our people that I expect the maximum cooperation, and of course we have this interagency agreement which was signed last spring between Commerce and MBDA and SBA on the other side, indicating quite specifically the kinds of activities for which we look to each other.

The kinds of services that MBDA should provide in this transition program are just extremely important. They have, of course, these 100 different Minority Business Development Centers, and we see those as a part of the team with SBA's 8(a) activities in the field through our 65 district offices.

So you are right, Mr. Chairman, in saying that if it does not work at that level, it is not going to work. And so that is where our main focus is going to be, on this very sensitive transition from SBA, preparing a profile on each one of the 8(a) graduates and passing it over to MBDA for their assistance, and I see a lot of this assistance being in a technical area, that of how to self-market procurement contracts with the Federal agencies, because this is the key and the guts of how these people do survive while they make a transition with more private sector work.

Mr. RIVERA. Mr. Chairman, if I might add, in the future, to be sure of that cooperation between our funded organizations and the local SBA offices, I have had discussions with Bob Wright, and I am committed that before we re-fund any of these organizations, we will check with the local SBA office and make sure that there is a good working relationship.

The CHAIRMAN. Thank you very much, Mr. Rivera.

Let me ask one more question of Jim Sanders.

I notice that Senator Nunn has joined us. He has had enormous interest in this whole area. I will ask one more question of Jim and then, Sam, why don't you go ahead and ask whatever questions you have of the Secretary or the Administrator.

A great deal of attention has recently been focused on the 23 firms which, on February 14, were no longer eligible to receive the 8(a) contracts pursuant to GAO opinion and a Federal district court decision. I might add that my office was bombarded, as was your administration.

I do not think that you have had a forum to speak on the issue, and I strongly believe you have been very unfairly criticized on your handling of the issue. I think this is a good time to give you the opportunity to respond.

Mr. SANDERS. Well, thank you.

One of the peculiarities of the 8(a) program is that as certain firms with perhaps better skills and better leadership begin to emerge in the 8(a) program, they acquire an increasing amount of sophistication at a faster rate. Those firms grow faster, and they also acquire more business.

Of course, we are pleased, I think, to see these firms obviously grow and succeed and get stronger. But one of the problems becomes that as they increasingly acquire a higher percentage of all the contracts available, that means there are fewer left for the other firms in the program who are not as sophisticated and, indeed, who are not located in the Washington, D.C., area, who do not have access to sophisticated law firms, and lobbying organizations.

This is, I think, the overriding problem in the 8(a) program. I do not believe program benefits have been equitably distributed around the country. You only have to take a trip away from Washington to find this out, wherever you appear.

So our efforts in implementing Congress' mandate in Public Law 96-481 were to finally achieve graduation and fixed program terms for each participant in the 8(a) program. We did that by April 1982.

But, as you have pointed out, Mr. Chairman, shortly thereafter, our ideas of making an even transition out of this program were rudely interrupted by several court decisions in which they said, "SBA, you cannot give any more contracts to a firm that is no longer small by the size standard." So that gave us a very difficult problem.

We understood and appreciated the problems of those 23 firms at that time who were affected by this, and we searched for certain legal remedies. We were denied those by the court. We then came up with a substitute that we felt would be perhaps accepted by the courts, or not challenged, and it was not, that we give these firms 6 more months by making a temporary change in the size standards, allowing these people to finish up some contracting in fiscal year 1982 and go on into fiscal year 1983. We felt 6 months would be looked on by the courts as perhaps a reasonable solution to a real problem.

At the same time, we had to regard the interests of the firms who had not received contracts around the country and recognize

that those people needed some attention, as well as those who wanted to get into the program, and also to the nonminority business community from whom these contracts are taken.

So, trying to balance all those things out, Mr. Chairman, we came up with this approach. We held our ground, of course. On February 14, when the end of that 6 months came about, I believe there were some firms of the 23 that were very large that were disappointed that we did not extend it again, but we felt, in a sense of fairness to all those other firms out there that have not been treated well in this program, that we had to insist that the program go forward to let them participate.

I brought some charts here, Mr. Chairman, that I think demonstrate vividly where the maldistribution occurs in the country. You will see here on the map, we have the 10 Federal districts laid out, regions I through X. Of course, you know the centers of those different regions. We have broken down percentages according to those regions.

The first one, in the orange, is the number of 8(a) firms in our portfolio and the percentage that that number represents of the total portfolio.

The number in blue represents the minority business population in that area, and it is the minority business population of the kinds of businesses that would likely get Federal contracts. It does not include some restaurants and taxi drivers and things like that, but it includes construction, manufacturing, and business services.

The third box there in the orange are the percentage of 8(a) contract dollars that go to that region.

Over here on the left, we have repeated those percentages of 8(a) portfolio percentages by regions in the first column. In the second column, again we are repeating that percentage of the minority population, again considering construction, manufacturing, and business services.

The third column is an interesting one. That shows the amount of total Federal procurement dollars spent in the United States in these various regions, without regard to minorities or anything else. That is the total. That is how procurement dollars flow.

The CHAIRMAN. In other words, let's just take the two side by side. As I understand it, region III, is the Washington, D.C., region—is that right?

Mr. SANDERS. Right.

The CHAIRMAN. It has 9 percent of the population, and yet 25 percent of the current 8(a) portfolio distribution is in that region.

Mr. SANDERS. That is correct.

The CHAIRMAN. That compares to region IV—I think that is Sam's area—which has 20 percent of the population and only 9 percent of the current portfolio distribution.

Mr. SANDERS. That is correct. They have, of the total amount of 8(a) contracts, 9.9 percent of the dollars and yet 20.6 percent of the minority businesses.

Region IX, for instance, shows 25 percent of the minority business population distribution, and yet only 16.4 percent of the 8(a) contract dollars go out there.

So you can see there are some wide disparities here. We feel that that issue is the major one that we have to address, in a sense of

fairness. It is not going to be easily done. You cannot do it overnight, but you have to begin to see that this thing responds, in a sense of fairness, around the country.

The CHAIRMAN. Region VI has 21 percent of the minority population distribution, and it has only 11 percent of the current portfolio.

Mr. SANDERS. Right, and it is interesting that region VI has only 5.4 percent of the 8(a) dollars. Do not confuse this column here. This is not 8(a).

The CHAIRMAN. I know it. I am not using that column at all. Senator Nunn?

Senator NUNN. Just one question on that, Mr. Chairman, before I go to other questions. How do you define total procurement dollar distribution? I think I understand the first column on the left, but I am not sure what that last column on the right represents.

Mr. SANDERS. That is the total Federal procurement of, say, \$132 billion in 1982, distributed by region. It has nothing to do with minority or 8(a) or anything else. In other words, region IX includes California, Nevada, and Arizona, and Hawaii. They have 22.7 percent of the total Federal procurement dollars. Of course, as we know, a lot of that goes in the aircraft industry, but in our minority contracts, they are at 16.4 percent.

Senator NUNN. So that last column does not have anything to do with the total minority amount. I thought at first it was the total minority participation in the total procurement.

Mr. SANDERS. No. We thought it was just an interesting contrast to show that Federal procurement dollars as distributed around the country certainly do not track with our procurement in the 8(a) program dollars.

Senator NUNN. Do you have indication about the total minority participation in those total procurement dollars as opposed to minority participation in just the 8(a) program?

Mr. SANDERS. Yes, we have some figures on total procurement as it is built up. Now, are you talking about the percentage of total procurement dollars that go to minorities?

Senator NUNN. Yes. It seems to me that is the bottom line of what we are getting at in terms of the Federal Government.

Mr. SANDERS. That is right.

Senator NUNN. The 8(a) program is a means toward the end, the end being minorities' vigorous participation in the total procurement dollars of the Federal Government, and 8(a) is a way—at least the way I interpret the legislative intent—of getting minorities more vigorously involved in the total dollars.

Mr. SANDERS. Yes, sir. Senator, this chart right here shows the way that the total minority procurement money has built up over the years, from 1970, going up to almost \$4.5 billion in 1982.

Senator NUNN. That is \$4.5 billion of the \$136?

Mr. SANDERS. Yes. Well, \$132.

Senator NUNN. \$4.5 out of \$132.

Mr. SANDERS. I think it is \$132 in 1982.

Senator NUNN. That is about 2 percent of the total procurement dollars.

Mr. SANDERS. It is 3.4 percent.

Senator NUNN. As compared to what percentage of the population? What is the minority percent of the population?

Mr. SANDERS. Well, it is significantly more than that, Senator. We have a breakdown, of course, by ethnic group and by totals.

Senator NUNN. Twenty percent?

Mr. SANDERS. At least 20 percent. But one of the other things that we are concerned about is that, of course, if we said that 20 percent of all Federal procurement contracts should go to minority firms, we would have a hard time finding enough minority firms to give them to. That is one of our problems right away.

Senator NUNN. Well, I do not advocate that policy, but do you have anything that shows a constant dollar? You are going from 1969 to 1982, and you are going from—let's see, 1970 would have been what level in dollars?

Mr. SANDERS. It says about \$30 million.

Senator NUNN. I see. Well, you have gone from that to \$4.5 billion. You have had a lot of inflation during that period of time. Do we have anything on a constant dollar basis?

Mr. SANDERS. We could adjust that for constant dollars.

Senator NUNN. Could you send for the record what that would be in constant dollars?

Mr. SANDERS. Certainly. With the inflation rate, you would cut some of that back to 1970 dollars in about half.

[Subsequent information was received and follows:]

8(a) PROCUREMENT
FIXED RATE PRICE INDEX
for
PURCHASES FOR ALL GOODS AND SERVICES

1969	.009
1970	.020
1971	.058
1972	.113
1973	.159
1974	.186
1975	.201
1976	.271
1977	.285
1978	.376
1979	.479
1980	.542
1981	.646
1982	<u>.655</u>
TOTAL	4.000

TOTAL MINORITY PROCUREMENT
FIXED RATE PRICE INDEX
for
PURCHASES FOR ALL GOODS AND SERVICES

1969	.013
1970	.028
1971	.125
1972	.307
1973	.551
1974	.478
1975	.504
1976	.601
1977	.579
1978	.931
1979	1.169
1980	1.249
1981	1.520
1982	<u>1.529</u>
TOTAL	9.584

Mr. SANDERS. One of the problems that we have, as you know, and the Secretary alluded to it, although our returns are incomplete from all agencies, the Department of Defense has shown us that they are off in the first quarter, and we are really concerned about this because we do know that with the sophisticated weapons systems that so many of the Federal dollars are going to, it puts a difficult burden on minority firms who are not up in proportion to the sophisticated technology in these weapons systems. So that becomes a real problem we have to deal with.

You might put this chart up showing the 8(a) part of that procurement. It follows pretty much the same kind of curve.

Senator NUNN. Mr. Secretary, I probably ought to address this to you. What steps will the President and the Cabinet Council take to make sure procurement officials recognize that the overall effort of the Federal Government is directed not just through 8(a) but rather to the broader picture of all Federal procurement dollars? What is it you are doing in that respect?

Mr. BALDRIGE. The goal that we have chosen and that the President has agreed with is a 10-percent increase in total procurement.

At the Cabinet Council level, we have discussed the fact yesterday that when the first quarter figures were in, we did not meet that goal for that quarter. I don't know how to describe what we did, Senator. We just told them that that was unacceptable, that we would be on the goal and to start to get with it. Everybody has the message. We will meet the goal.

Senator NUNN. Are counting subcontracts in here, not just direct Federal contracts and procurement? Does the 10-percent goal include both prime contracts and subcontracts, or is it strictly prime?

Mr. BALDRIGE. No, it is both, and it is the same figure that was on the other chart, the \$4.5 billion.

Senator NUNN. So that includes both, also?

Mr. SANDERS. That is correct.

Mr. BALDRIGE. Yes.

Mr. SANDERS. As the Secretary discussed, at the Cabinet Council meeting that he chairs, he approved the suggestion that an ad hoc committee be formed to try to strengthen all the subcontracting goals. They, although set up by Public Law 95-507, have never really had any teeth put into them. They talk about incentives in subcontracting, but we feel we can strengthen that kind of a goal.

Mr. BALDRIGE. That is really, Senator, why we moved this up to the Cabinet Council. On the interagency group, which we still should keep—it is a good group for a number of reasons—that is strictly voluntary. I don't know how to describe what we are doing, but it is not strictly voluntary; it is only semivoluntary. If it does not get right, the voluntary part of it will probably—

Mr. SANDERS. Fade away.

Mr. BALDRIGE [continuing.] Get less and less, yes. [Laughter.]

Senator NUNN. What would you like to see, Mr. Secretary, let us say 5 years from now? I am not talking so much in specific percentages, but what is the longer term goal that you have—and, Mr. Sanders, I would ask you the same question—for minority participation in the free enterprise system?

Mr. BALDRIGE. Well, I think that we all would share the same view, that if we could get minority business to be as successful, and

on an equal footing, and as skilled, as used to competition, as able to handle competition, as the rest of business in the private economy, we would have been accomplishing a great thing.

We simply cannot allow minority businesses to languish in the backwater, at the same time encouraging them. We still have to make sure that there is adequate training for them to be able to exist in a competitive world that makes up our economy.

So I would like to see the kinds of efforts that we are making now with the 8(a) program, for example, having companies go through in a reasonable succession of years. I don't know what the right number of years is—5, 6, 7, or 10. The Administrator is closer to that than I am. But have that as a foregone conclusion that while you are in there, you are learning. At the same time, you are participating in the contracts, but you are learning how to get along in the outside world, so that when you graduate, you are able to take your place as an adequate competitor.

We are not there yet. The programs that we have set up in MBDA to help on those kinds of training programs are stronger than they were and they are getting stronger, but we still have a great ways to go.

I think we used to, in MBDA, some years ago, look on the consultant help that we gave minority business as a—well, I want to maybe exaggerate a little and get the point across—but as a strengthening force because of empathy and shared experiences, and so forth. But it was not, in my opinion, a very professional effort. I mean, it was not teaching people how many inventory turns you had to get to stay alive, what is the short-term credit ratio, some of the hard facts of life.

Now we have changed that. To run one of these MBDA centers, the consultants have to go through a competition where the most professional one is picked. I think that, from some of the complaints we heard, I was almost glad to get them when I first came down here, because the complaints centered around kind of a lack of empathy that they were used to, but they were getting more hard-nosed business help, and I think we have to improve that in the future, because the goal should be to teach, train, and help minority business to compete, really, without having to stand with one leg on the government as a necessity for them to exist.

Senator NUNN. Mr. Sanders, do you have anything you would like to say about a 4- or 5-year plan? What are your goals in the 8(a) program?

Mr. SANDERS. Well, Senator, I do not look at it as particularly a 5-year goal. I look at it as a continuum, without any kind of a particular cutoff point as far as the program. I think we will be with this program for a long time.

Senator NUNN. Well, let's put it this way. Five years from now, this committee will be looking at whether 8(a) has made significant improvements from today. If you were still Administrator, what would be the areas that you would like to see, and that you would like to come up and give us a progress report.

Mr. SANDERS. I can easily answer that. I want to underscore everything the Secretary said. I believe that the weakness of this program has been that it has been regarded as simply a processing machine for getting a lot of contracts out and looking good, without

any regard to the development of the firm. I don't say "any regard," but they have not taken the time, nor has the kind of skilled instruction been available, nor even forced on the participants and maybe made a condition of continuing in this program that you make certain progress in your demonstrated ability to manage, to build an organization, to observe the financial laws that every successful small businessman must observe.

So I think that what we will look for 5 years from now is that we are going to have a much larger number of firms that we can point to and say, "These people have made real progress in their management abilities and in their financial strength; as you look at them, their balance sheet shows progress." They will be able, pretty soon, to merge into the main stream because they know where to go, and they have had an increasing participation from outside business, not just government-supplied business, not just sole source.

I would hope that in 5 years we are going to be seeing a number of firms that are coming out, confident that they can compete, and having our dollars—ours and MBDA's—devoted largely to giving them the skills so they can emerge. A lot of those skills will be acquired from the private sector, from private consulting firms.

Senator NUNN. On the paperwork burden—and I know you probably alluded to that in your statement—two or three of the questions that have come to my mind are as to whether they are really necessary for an 8(a) applicant to fill out. One question says, "Name five businesses which provide the most competition to your business." I understand that one. I think that could be done.

But then it goes on to say, "What are your competitors' strengths and weaknesses?" And next, "How are your competitors' operations similar or dissimilar to yours?"

It seems to me that an 8(a) struggling firm trying to get started here would have a rather difficult time with that kind of information. Is that kind of information essential in judging eligibility, or is it essential in judging the question of whether you want to make the loan? If they knew all of that, they might not need an 8(a) loan to start with. [Laughter.]

Mr. SANDERS. That is quite true, Senator. As a matter of fact, getting a small businessman to slow down long enough to sit down and answer the questions is quite a challenge right away.

But I think that some of the procedures we have been through in making an applicant—I should say making the applicant go through to qualify himself—have to be revised. Before you came into the chambers here, I was referring to some of the changes that we are making.

Senator NUNN. Well, you do not have to repeat that. I will catch up on that.

Mr. SANDERS. But, yes, I think there have been a lot of exercises that do not demonstrate too much sagacity.

Mr. BALDRIGE. Senator, if I may say so, I don't think that is too bad a question. I mean, that is part of the training process a firm has got to go through if they are going to make it outside the U.S. Government: What is your competition, really? Why are they strong here? Why are they weak there? You have to find your own niche and figure out a way to compete with them.

Now, there are other questions on that chart. I am no expert on it, but I know Jim would agree——

Senator NUNN. Well, I think that would certainly be relevant to improving management capability, but I wonder about the initial form for participation in 8(a). It is a question of where that should come. If I were a business consultant and I was trying to analyze how I could help, I think that is certainly relevant there.

But it seems to me that is one of the areas of assistance that, once you get in the program, you need help in making that kind of analysis. But right at the beginning of it, it does tend to overwhelm a struggling new firm, I think.

Mr. SANDERS. We try, in all of our management assistance programs, to underscore the fact that when somebody is about to expand or establish a firm, have they really done any kind of thinking, any marketing kind of study? Is their service really needed, or are there too many already, or their product? These are the kinds of essential questions.

As you know, in our prebusiness workshops, this gets a little bit away from just the minority project which we are trying to encourage, but sometimes, in the prebusiness screening, we convince some people that they really have not thought out their problems and they are not too smart to risk their life savings in beginning a new business and then seeing it fail because they have not thought through these questions. That is a savings right there.

Mr. BALDRIGE. I have seen some billion-dollar companies that have not thought through those questions, Senator. [Laughter.]

And they have been sorry for it, too.

Senator NUNN. Well, it may be. I will look at it again in that light. You have made good points here.

One of the most frequently cited reasons for denying a firm's participation in the 8(a) program is the lack of contract support. How has your agency defined the term "availability of contract support"?

Mr. SANDERS. Well, of course, the contract support is what we estimate will be available from the Federal agencies in his area and in his particular occupation or industry.

We try to avoid saturation. There is no point in getting 20 or 25 contractors in the Atlanta region if we feel that there is only enough work for 7 to 10 of them coming down the pike.

Now, I am not convinced that we know enough about how much work is coming down the pike, and that is one of our problems. I think we need a little more basic information from all the Federal agencies on just what kinds of work will be available and that sometimes is limited by the number of people we have.

Senator NUNN. Well, last year in the Armed Services Committee, I got an amendment passed which requires a report, and I believe that that report will be forthcoming, shortly, just looking at the defense impact on skilled labor, for instance. We do not have an informational base that I am aware of, including the Labor Department as to what kinds of skills really are going to be needed, both within the defense arena and in the broader private enterprise system, in the next 10 years.

That informational base does not go to exactly what you are talking about, but it seems to me that kind of information is essential

to know where we are going. It is not that we want to plan all of it because we cannot, but we really did not have coordination between the Labor Department and the Defense Department in looking at that skill impact.

Let me ask just one other question, Mr. Sanders. We made significant changes in 1978 and I was on the conference when that was done. It was our intention of moving the 8(a) program more into a business development program where people moved in and moved out and made room for others who were going through that experience, rather than permitting it to be a permanent resting place.

I know that has created a lot of controversy. The graduation program has created controversy. But looking at those changes in the 1978 law, do you think that is still a valid concept for 8(a), or do you believe we need to take another look at it?

Mr. SANDERS. I think it is a valid concept. I just think that we have so far, as a government, failed to do that. I think that the emphasis has just been on processing contracts and not developing the skills, and that is why I said I think that is the thing I would look forward to 5 years from now, that we will have begun to really address the development area of that law.

Senator NUNN. Do you read that intent the way I read it? Is that clear when you are administering that law?

Mr. SANDERS. Well, that seems to me to be clear. I think there are some other parts of it that have been largely ignored, also, in the areas of incentives and subcontracts and that sort of thing.

I clearly see it that way. Otherwise, you have not really achieved anything. The minute you cut off the program, with the other approach, these firms will collapse. That is not the purpose. The purpose is to create viable, strong minority businesses, and that is what the administration and the President have said. He wants to create the opportunity to have 60,000 more minority firms emerge 10 years from now than exist today. That is a real challenge, and I think what he is talking about are viable firms.

Senator NUNN. Do you have a track record in the last couple of years as to how many firms that have been in, 8(a) and are now out competing successfully in the free enterprise system? At one point, I think we had a report on that, about 2 years ago, Mr. Chairman, and it was a rather dismal record. It showed a huge number of business failures of people who had gone through 8(a).

We had a hearing last summer, and we heard the other side of it, that it looked better now, not just with 8(a) but with minority contracting in general. Do you have an update on that kind of informational base? What has happened to 8(a) firms that have been in and are now out in the system? How many of them are really competing? How many of them have viable balance sheets? Do you have this data?

Mr. SANDERS. I think there have been some attempts. I have never seen any satisfactory results from that. Let me ask some of the people I brought here.

Mr. WRIGHT. No, Senator, we do not have any real hard figures on that. We do know of some individual cases. Some firms in the program have done quite well, but I cannot give you a specific figure now.

Senator NUNN. Don't we have to develop that information in order to determine whether these goals that we have been talking about have been met or are being met?

Mr. SANDERS. I think so, and that is the direction that we want to go. I think it is rather obvious that after the 10 or 12 years this program has been in effect, it has not produced the kinds of results that were envisioned in Public Law 95-507, and even in the 4 or 5 years since that law was passed.

I think that is what the Secretary and I are talking about here. I would rather have 250 viable firms emerge than have 1,000 dependent firms that will collapse the minute they graduate because they have had nothing but Government sole-source contracts. That is not the purpose of the program.

Mr. BALDRIGE. We were talking before you came in, Senator, about the cooperative effort we need, and it does exist, but I think we need to strengthen the actual steps we take between the SBA and the Minority Business Development.

As a firm leaves the 8(a) program, for whatever reason, we have taken steps in the Minority Business Development Agency to give that firm professional help and guidance in going to the private sector for contracts but also to State and local government entities. There is more total purchasing power at the State and local level there than there is, actually, in the Federal Government.

We also have now made approaches to the National Minority Suppliers Development Council, and that has been very well received. That is some 2,500 firms in the private sector, and they now have a committee which they just set up at our request to keep on, as firms leave 8(a), with trying to identify places for them to get business.

This has got to be a combination effort, because when one firm leaves the 8(a), it may need varying degrees of help as far as sharpening its skill. Some of that process should start well before the time it leaves the 8(a) program, before it leaves the SBA, and it should continue with the MBDA after it gets out, if we are trying to make them professional firms.

Senator NUNN. I agree with that.

Just one closing question or comment. It seems to me that when you have these goals of your programs and your agencies. You cannot always specify them with great detail—but could we have from each of you the goals of your programs and your agencies. You can divide it into 4 years or 5 years, or whatever timeframe that makes sense to you.

And then also provide us with the way you are going to assess whether you have met those goals. By that, I mean what is your information base on which you are going to judge success or failure, or somewhere in between, and how often are you going to gather that information?

I don't want to put a new reporting requirement on you right now, but if you have, on your own initiative, any kinds of reports you are going to have internally, then I think it would be helpful to this committee to get at least summaries of those reports so that we could monitor the program. Then, we could say to our colleagues who are voting on the money for this, that we are, indeed,

making progress, or we are not making progress, and here is what is wrong.

Right now, it seems to me, we can look back and say what was wrong 2 years ago or 3 years ago or 4 years ago. But, it seems to me we have not yet developed an information base that is going to allow us, and perhaps even you to judge, whether we indeed are correcting those past errors.

Mr. BALDRIGE. Senator, we would be glad to do that. I should caution you, though, that with a legitimate, intelligent request like that, you are liable to start a trend toward management by objectives in the U.S. Government that could spread over into some of the other parts, and that would be new, indeed. [Laughter.]

We would be glad to.

[Subsequent information was received and follows:]



THE SECRETARY OF COMMERCE
Washington, D.C. 20230

MAY 4 1983

Honorable Lowell P. Weicker
Chairman, Small Business Committee
United States Senate
Washington, D.C. 20510

Dear Lowell,

At the hearing you held on March 24, Senator Nunn asked me where we would like minority business to be in five years. In response to Senator Nunn's question, I am submitting for the record, a summary of our long range goals on this subject.

Sincerely,

A handwritten signature in dark ink, appearing to be "M. M. M.", is written over the typed name of the Secretary of Commerce.

Secretary of Commerce

Goals and Objectives for
Minority-Owned Business Performance

1. Increase the participation of minorities in business ownership.
 - o The minority business participation rate in 1977 was 13.9 businesses per 1,000 persons, while the same rate in the non-minority population was 62.9. The minority rate should be at least 20 per thousand by 1987.
2. Attain a better size distribution of minority-owned firms.
 - o By 1987, at least 22 percent of all minority-owned firms should have paid employees (compared to 18.9 percent in 1977); and 1,000-2,000 firms should grow to a size of over 100 employees (compared to 207 firms in 1977).
3. Attain a better industry mix of minority-owned firms.
 - o Too many minority firms are in industries with little or no growth potential. In 1977, only 8.6 percent were in manufacturing, wholesaling and business services (compared to 16 percent in the non-minority sector). This should increase to 12 percent for minority firms by 1987.
4. Increase Federal dollars deposited in minority-owned financial institutions.
 - o Increase Federal deposits in minority financial institutions from \$451.1 million in fiscal year 1982 to \$800 million in 1988.
5. Increase the number of Federally assisted formations and expansions.
 - o Assist in the formation of 60,000 minority businesses and in the expansion of an additional 60,000 minority businesses by 1992. Currently we are assisting in the formation of 2,000 businesses and in the expansion of 2,000 businesses each year.
6. Increase Federal procurement to minority-owned firms.
 - o Federal procurements of goods and services from minority businesses should total \$15 billion for the three-year period 1983-1985. Federal procurements awarded to minority firms in fiscal year 1982 were \$4.4 billion.
 - o Minority business procurements resulting from Federal grants and cooperative agreements should amount to \$6 - \$7 billion over the same three-year period. FY 1982 procurements from this source were \$2 billion.

Objectives 1, 2 and 3 can be assessed using the 1987 Survey of Minority-Owned Business Enterprises and Census Bureau estimates of population. Data from the 1982 Survey should be available by mid-1984 and data from the 1987 Survey by mid-1989.

Objectives 4 and 6 can be monitored using the quarterly MBDA-91 Program Data Report. This report contains Federal procurement data submitted by major Federal agencies and Federal deposit data from the Treasury Department.

Information on Objective 5 is available quarterly from MBDA's Business Development Reporting System.

The CHAIRMAN. Well, what I would like to do, at least as far as this committee is concerned, is assure both of you and members of the committee that we will hold a similar hearing a year from now. I would hope both the Secretary and the Administrator will attend. Let's see where we stand a year from now as compared to the facts that have been developed at this hearing today.

I would say that, dependent on those facts and the results of those hearings, we will determine whether or not the Secretary and the Administrator will be back the year following. [Laughter.]

Mr. SANDERS. Or a week later. [Laughter.]

The CHAIRMAN. I think that is the way to handle it. But I think what all of us are trying to achieve here is a lowering of the political rhetoric as to who is doing what and how much. You are interested in the bottom line; so is Senator Nunn; so am I.

There are obviously some discrepancies here that need straightening out, all you have to do is see the figures that have been presented. I realize that maybe there are doubts on the part of those that are on the point of graduating as to the commitment of the Government to minority enterprise.

But we should get some of those answers, I think, in terms of the performance next year. So I agree with Senator Nunn. I think we are both hitting at the same thing.

Just before you leave, since I did afford that opportunity, is there anybody that had a question he or she wants to submit to the Chair, to be directed to either the Secretary or the Administrator? [No response.]

Senator NUNN. Senator Levin has questions for the record which we will insert.

The CHAIRMAN. There will be questions that are submitted for response to the record.

[Subsequent information was received and follows:]

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, D.C., May 10, 1983

Hon. LOWELL WEICKER,
Chairman, Committee on Small Business,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Transmitted herewith is the corrected transcript for the hearing held on March 24 before the Small Business Committee concerning the minority business enterprise program. In addition to the transcript the constant dollar figures requested on page 41 have been included.

At the hearing Senator Nunn had asked that the Agency provide him with the goals of the minority small business program over a long-range time frame. The plan is being formulated but has not been completed. When it is finished we will be pleased to provide the committee with a copy.

I have also enclosed a copy of SBA's response to questions in a letter dated April 8 which were submitted following the hearing.

Sincerely,

ROBERT W. SANTY,
Director, Office of Congressional
and Legislative Affairs.

RESPONSES TO ADDITIONAL QUESTIONS FROM MARCH 24 HEARING

Question 1. Review of Requests for Extension of Fixed Program Participation Period. What policies and guidelines for reviewing the requests for extensions of the fixed program participation term have been established? Please provide copies of all policies and guidelines provided to central, regional or district office staff. Will the

decision on the number and location of new entrants into the program await the outcome of the review of current program participants' extension requests.

Answer 1. Enclosed are rules and regulations and operating procedures governing our FPPT and extension processes. The decision on the number of new entrants will be made solely on our criteria for such. As you may know, our goal for new entrants for the next 12 months is 500 firms. Our extension requests are spread out over the year and will be reviewed in accordance with the procedures enclosed.

Question 2. Business Development Nature of Program. For a good many years, the 8(a) program was thought of only as a program designed to broker federal procurement contracts for minority owned businesses. In October 1978, Congress enacted Public Law 95-507, which redirected management and technical assistance to 8(a) participants as well, to assist firms in becoming competitive businesses.

Do you believe that the concept of the business development nature of the 8(a) program, as Congress has provided through the combination of Public Law 95-507 and Public Law 96-481, remains sound?

Does the law require any further amendment to ensure that your agency has the tools available to fully operate the 8(a) and Capital Ownership Development programs?

What actions will SBA be taking over the next several months to train and equip its personnel so that the 8(a) program is truly a minority business development program?

Answer. 2. It is true that for many years the 8(a) program was thought of as a contract brokering program. However, SBA management, as a result of the issuance of the Presidential Executive Order on Minority Small Business on December 5, 1969, provided policy and procedural guidance dictating that the business development aspects of the program be emphasized. Unfortunately, resource limitations and other factors made this objective unobtainable.

We believe that the concept of business development as mandated by Public Law 95-507 and Public Law 96-481 remains sound. The law need not be amended in order to accomplish the business development objectives. On the contrary, what is needed now is a period of stability. We have the commitment and essential resources required to develop policy, procedures, rules and regulations consistent with these public laws. Our total attention can now be directed at providing opportunities for sound business development.

Training of SBA personnel in the business development aspects of the program has already begun. An extensive portion of the agenda of a recent three day conference of Assistant Regional Administrators for MSB & COD was directed to developing plans which will allow us to emphasize the development of approved firms. Additionally, business development was emphasized throughout a two day conference of both Regional Administrators and Assistant Regional Administrators held this month. We hope to hold a national training conference shortly to provide additional training for all field personnel. If additional training is required, after this conference, it will be provided.

Question 3. Critical to the success of the President's goal of increasing the flow of contract support and credit assistance to minority business is the commitment of staff and resources.

In SBA's Region IV, for example, which includes the state of Georgia, there are nine SBA district offices. With the exception of the Atlanta district office, there is only one business development specialist in each office to provide all of the services to assist minority business. In the Atlanta district office, which covers the entire state of Georgia, there are two business development specialist positions, and one is currently vacant!

With the new emphasis on a broader geographical distribution of funds and contracts, what efforts will you make to ensure that the allocation of the agency's limited resources are directed to those offices and areas where the minority business firms are likely to be located, and the contract requirements likely to be made?

Answer 3. Equitable distribution of MSB & COD personnel is one of our objectives for fiscal year 1983. We recently conducted a survey to compare the workload per BDS. In several cases redistribution has been implemented. The Agency conducts on-going reviews of its resources in the field and central office to assure an equitable distribution of our staff according to the concentration of minority businesses and the availability of procurement opportunities.

Question 4. Use of Business Development Expense Congress makes available business development expenses to the agency. In fiscal year 1982, less than one-third of the \$20 million appropriated for BDE (\$6.2 million) was used. Of that, only \$2 million was used for price differential.

Does this minimal use of BDE indicate that 8(a) firms are meeting the contract price anticipated by the procuring agency?

Are there other uses in the agency for which Congress could reallocate these funds?

Answer 4. The decreased use of BDE (in 1982) does not indicate that 8(a) firms are always meeting the contract price anticipated by the procuring agency. In fact, there is often a substantial difference. However, we believe that the way to resolve this problem is to assist our firms to obtain necessary capital equipment and facilities to become more efficient. Therefore, we have prioritized the use of BDE for this purpose. The low use of BDE in 1982 was not normal and we expect to fully utilize the allotment this year. BDE funds need not be reallocated since we have taken action to assure its full but proper utilization.

Question 5a. What is the current level of Federal procurements for minority business:

Through 8(a)?

Through non-8(a) prime contracts?

Through subcontracts?

Answer 5a. The current level of Federal procurements to minority business as of fiscal year end 1982 is:

Program ¹	Billions
8(a).....	\$1.888
Non-8(a) prime contracts	1.300
Subcontracts.....	.850

¹ As reported to SBA by Agency heads pursuant to section 221(h) of Public Law 95-507.

Question 5b. What is the current level of credit assistance to minority firms from the Federal Government, by program? What is the anticipated allocation of this assistance over the next three years through the various programs?

Answer 5b. Comparison of total loans by program and minority loans for fiscal years 1981, 1982 and 5 months of 1983 (dollar figures are stated in millions, and do not include investment company programs):

	1981		1982		5 months—1983	
	Number	Dollars	Number	Dollars	Number	Dollars
All loans.....	28,740	3,208.5	15,435	1,782.4	5,857	771.9
Minority.....	5,240	415.2	2,521	216.2	737	69.8
Percentage.....	18.2	12.9	16.3	12.1	12.6	9.0
Direct.....	5,525	307.6	2,655	150.9	428	24.0
Minority.....	2,653	148.1	1,095	61.6	189	10.9
Percentage.....	48.0	48.2	41.2	40.8	44.2	45.4
Guaranty.....	23,215	2,900.7	12,780	1,631.6	5,429	747.2
Minority.....	2,587	267.1	1,426	154.6	548	58.9
Percentage.....	11.1	9.2	11.2	9.5	10.1	7.9

It is quite clear from the figures above, that a very high percentage of direct loan assistance has been provided to minority firms. In 1981 this represented roughly one-half of minority loan assistance in SBA by number of loans. The level of guaranty loan assistance to minorities has remained fairly constant at approximately 10 percent by number.

We do not anticipate any significant change in the guaranty percentages. With an anticipated recovery in 1983, and assuming a loan guaranty level ranging from \$2.5-\$3.0 billion, we anticipate guaranty minority loans to run at a level of 2,500 loans for \$250 to \$300 million.

In direct lending, loan volume would be anticipated to continue at approximately 45 percent of both the numbers and dollars of direct loans. At this point, we have no way to estimate the level at which this program may run overall in the future. It must be noted that the Administration has proposed no funding for the direct programs (other than Minority Small Business Investment Companies) for fiscal 1984.

Question 5c. Have the individual procurement goals for Federal agencies and departments been established for the next fiscal year? Please provide a list of the goals which have been set for each agency.

Answer 5c. Procurement Goals for prime subcontracts to small business and women-owned businesses have been established for fiscal year 1983 and a copy of

these goals is enclosed. However, as yet the Office of Minority Small Business and Capital Ownership Development has not completed the goaling process with seven agencies.

Question 6. Delays in Processing. What specific steps will you be taking to expedite the processing of new applicants for the 8(a) program?

Answer 6. We are currently revising our procedures (found in Chapter 3 of SOP 80-05) to simplify and expedite business plan applications.

We will inaugurate a two step procedure: contract support, and then, if positive, the complete business plan. We are reducing layers of review, eliminating review committees at the district level, making certain procedures optional or delaying them until after certification and setting time frames at each level of review. Many delays are caused by inadequate or incomplete business plans and we are going to rely more heavily on outside assistance such as MBDA business development organizations to assist clients with business plan submission.

Question 7. Department of Defense Architectural Engineering Contracts. DOD's A-E set-aside policy has been criticized recently as providing limited assistance for those Congress intended to assist through small business legislation. What is SBA doing to ensure that the truly small, new, minority, and women-owned firms are receiving their fair share of government procurements under the A-E category?

Answer 7. The recent criticism of the A&E set-aside policy within DOD and the actual implementation thereof has not been that such policy is providing limited assistance to small business but rather has been a criticism leveled by the very few large A&E contractors in this country that small business is receiving too great a proportion of DOD's A&E dollars. SBA is working with the DOD to insure that wherever possible A&E procurements are set aside for small business which includes small minority and women-owned firms as a part of that small business group.

Question 8. Tribally-owned Firms.

In the Spring of 1982, the Denver Regional Counsel of SBA issued an opinion that tribally owned businesses were not eligible for 8(a) contracts. This was contradicted in October 1982, by the General Counsel of the SBA in an opinion stating that tribally owned businesses were eligible. Since the inception of the 8(a) program tribally owned businesses have participated, i.e., the A&S Industries in Montana and the Devil Lake Sioux in North Dakota.

Apparently, some field offices are confused as to whether or not tribally owned businesses are eligible. The Cherokee Nation Industries in Oklahoma have been informed that they are ineligible. Senator Nickles mailed an inquiry to your office on January 5 to which he has received no reply.

What is being done or what can be done by the SBA to clarify this situation?

Answer 8. We have advised our regional offices that tribally-owned firms are indeed eligible for 8(a) participation and have forwarded them a copy of our General Counsel's decision. There should be no confusion on this point but we will reiterate our policy to the field once again.

Enclosed please find our response dated February 28, 1983, to Senator Nickles' inquiry regarding this subject.

SMALL BUSINESS ADMINISTRATION STANDARD OPERATING PROCEDURE NATIONAL											
SUBJECT: Minority Small Business and Capital Ownership Development Program	S.O.P. SECTION 80	NO. 05	REV F								
<u>INTRODUCTION</u> 1. <u>Purpose.</u> a. To implement and outline procedures for the extensions of Fixed Program Participation Terms. b. To establish a new 8(a) contract numbering system. 2. <u>Personnel Concerned.</u> All Regional Administrators, Assistant Regional Administrators for Minority Small Business and Capital Ownership Development, District Directors, Assistant District Directors for Minority Small Business and Capital Ownership Development and Minority Small Business and Capital Ownership Development personnel. 3. <u>Page Changes.</u> <table style="margin-left: 40px; border: none;"> <thead> <tr> <th style="text-align: left; padding-right: 20px;"><u>Remove</u></th> <th style="text-align: left;"><u>Insert</u></th> </tr> </thead> <tbody> <tr> <td></td> <td>162.1 - 162.9</td> </tr> <tr> <td>223 - 224</td> <td>223 - 224.1</td> </tr> <tr> <td></td> <td>341 - 360</td> </tr> </tbody> </table> 4. <u>Distribution.</u> Standard 5. <u>Originator.</u> Associate Administrator for Minority Small Business and Capital Ownership Development.				<u>Remove</u>	<u>Insert</u>		162.1 - 162.9	223 - 224	223 - 224.1		341 - 360
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AUTHORIZED BY JAMES C. SANDERS ADMINISTRATOR	EFFECTIVE DATE 11-1-82		PAGE 1								

S.O.P. CONTINUATION SHEET	S.O.P.		REV
	SECTION	NO.	
	80	05	F
* 108.1 <u>FIXED PROGRAM PARTICIPATION TERM EXTENSION</u> a. <u>GENERAL</u> Not less than one year prior to the expiration of its Fixed Program Participation Term (FPPT), a concern may request SBA to review and extend its FPPT for a period not to exceed the difference between its original FPPT and seven years. Only one extension may be granted. b. <u>REGULATORY AUTHORITY</u> Procedures for the extension of FPPTs are governed by the provisions of 13 C.F.R. 124.1-1(f)(4),(5)(8). Relevant portions of those sections state as follows: "(4) Not less than one year prior to the expiration of the Fixed Program Participation Term, a concern may request SBA to review and extend its Fixed Program Participation Term for a period not to exceed the difference between the Fixed Program Participation Term established in the business plan and the maximum Fixed Program Participation Term authorized herein, plus two years. There may be no further extensions.... (5) The criteria that SBA will use in negotiating a Fixed Program Participation Term or an extension thereof with current program participants and applicant program participants are as follows: (i) The factors referenced in § 124.1-1(c)(4) of this regulation for determining economic disadvantage.... (B) In negotiating a Fixed Program Participation Term for concerns currently in the program, SBA will consider the section 8(a) contract support previously received by the concern. An SBA determination that such previous contract support has failed to appreciably contribute toward a timely achievement of competitiveness will be a significant factor toward limiting the Fixed Program Participation Term and the conditions thereof.... (B) In negotiating a Fixed Program Participation Term for concerns currently participating in the program, SBA will consider the non-section 8(a) contract support previously received by the firm. An SBA determination that the concern has failed to progressively increase the importance of such non-section 8(a) contract support during its previous			
		EFFECTIVE DATE	PAGE
		11-1-82	162.1

S.O.P. CONTINUATION SHEET	S.O.P.		REV
	SECTION	NO.	
	80	05	F
108.1 * participation in the program will be a significant factor toward limiting the Fixed Program Participation Term and the conditions thereof. (B) In negotiating a Fixed Program Participation Term for concerns currently in the program, SBA will consider the length of time during which the concern has previously participated in the program. The degree to which this past participation in the program has exceeded the maximum Fixed Program Participation Terms set forth in paragraph (f)(4) herein, will be a factor toward limiting the Fixed Program Participation Term and the conditions thereof. (B) In negotiating a Fixed Program Participation Term for concerns currently in the program, SBA will consider the previous Advance Payments and Business Development Expense received by the concern. An SBA determination that such Advance Payments and Business Development Expense support has failed to progressively decrease in importance during its previous participation in the program will be a factor toward limiting the Fixed Program Participation Term and the conditions thereof. (B) In negotiating a Fixed Program Participation Term for concerns currently in the program, SBA will consider the previous rate at which the concern has decreased its reliance upon program support, and correspondingly increased its reliance upon conventional governmental and private contract business. An SBA determination that the concern has failed to appreciably improve its rate of business reliance in this manner will be a factor toward limiting the Fixed Program Participation Term and the conditions thereof.... (7) Nothing in this paragraph (f) shall be construed to limit SBA from initiating Termination actions, pursuant to subsection (e) above, or Completion actions, pursuant to subsection (d) above, during and Fixed Program Participation Term granted herein. (8) Upon the conclusion of the Fixed Program Participation Term granted and/or extended herein, a concern will cease to be a program participant. This cessation of program participation shall occur without the necessity of any additional action by SBA; also it shall not give rise to any rights, claims or *			
		EFFECTIVE DATE	PAGE
		11-1-82	162.2

S.O.P. CONTINUATION SHEET	S.O.P.		REV
	SECTION	NO.	
	80	05	F
108.1			
* prerogatives on behalf of the concern. Cessation of program participation at the conclusion of the Fixed Program Participation Term shall not be subject to the hearings or other requirements of section 8(a)(9) of the Small Business Act (15 U.S.C. 637(a)(9) or any implementing rules or regulations."			
c. <u>REQUEST FROM FIRM</u> Any 8(a) concern wishing an extension of its FPPT must make its request in writing by certified mail, return receipt requested, or by registered mail, to the appropriate field office, not less than one year prior to the expiration of the firm's FPPT. The timely submission of any request for extension shall be the sole responsibility of the 8(a) concern.			
(1) The request for extension will be date stamped by the mail clerk immediately upon receipt in the field office.			
(2) The request shall then be assigned to a BDS who, within five business days of receipt of the request for extension, shall determine whether the request was made in a timely manner.			
(a) If the request for extension was mailed less than one year prior to the expiration of the firm's FPPT, the request cannot be processed. The request will be returned to the firm with a letter from the district director advising that the provisions of Public Law 96-481 prohibit the consideration of any request for extension made less than one year prior to the expiration of a firm's FPPT. <u>In no case may this one year requirement be waived.</u>			
(b) If the request for extension was made not less than one year prior to the expiration of the firm's FPPT, the BDS shall immediately forward by certified mail, return receipt requested, to the firm complete instructions for providing the documentation necessary to support the firm's request. The BDS shall provide all necessary forms including a revised business plan form as appropriate together with SBA form 413, Personal Financial Statement, for each person upon whom eligibility is based. The firm will be advised to complete all forms and supporting documentation and return the completed material within 30 days along with a persuasive narrative rationale to establish the basis for justifying the requested extension. *			
		EFFECTIVE DATE	PAGE
		11-1-82	162.3

S.O.P. CONTINUATION SHEET	S.O.P.		REV
	SECTION	NO.	
	80	05	F
* For any firm which received an original FPPT of one year, and made a timely request for extension of that FPPT, immediately upon issuance of these procedures, the BDS shall forward to the firm complete instructions for providing the documentation necessary to support the request. The BDS shall then follow the procedures set forth in these instructions for processing the request. (3) The narrative summary provided by the 8(a) concern shall detail the following: (a) The firm's progress since the setting of its FPPT; (b) Areas in which the firm failed to make the progress anticipated when the FPPT was set, if any, and the reasons for such failure. For example: If the firm failed to meet its projected level of non-8(a) contract support, why? Did the firm actively try to procure contracts in the non-8(a) government and private sectors?; (c) Benefits to be derived from an extension, other than mere increase in contract revenue; (d) Any extenuating circumstances unique to the firm which cause an extension to be necessary and appropriate. For example: (i) The concern has suffered extraordinary unforeseen events which have had a temporary adverse impact on the firm's operations. (ii) The concern is involved in a project intended to realize social-economic objectives such as the Enterprise Zone concept and special initiatives to create jobs in designated areas of chronic unemployment. (iii) Removal of the firm would have an adverse effect on overall 8(a) program objectives. (e) Any other facts which the firm believes supports its request; (f) A statement by the firm that it is in compliance with the terms and conditions of 8(a) program participation as set forth in its Participation Agreement. *			
		EFFECTIVE DATE	PAGE
		11-1-82	162.4

S.O.P. CONTINUATION SHEET	S.O.P.		REV
	SECTION	NO.	
	80	05	F
108.1			
* (4) Upon receipt from the firm, the completed forms will be date stamped by the mail clerk and immediately forwarded to the assigned BDS. (5) The supporting documentation shall be reviewed for completeness by the assigned BDS within five days of its receipt. (a) If the information is incomplete, the concern shall be immediately informed in writing. The letter must clearly outline the specific missing or incomplete items and actions which must be taken to overcome the deficiencies. The letter shall advise the firm that it must provide complete or corrected information within five business days of receipt of the letter from SBA. (b) If the information is complete, the BDS shall continue processing the firm's request for extension. d. <u>PROCESSING COMPLETE REQUESTS FOR EXTENSION</u> (1) Requests for extensions shall be processed as follows: (a) For firms receiving original terms of two years or less: (i) After screening the request for completeness, the BDS shall immediately complete the appropriate sections of the attached "Evaluation Factors for Fixed Program Participation Term Extension" (Appendixes 51-55) to reflect the firm's condition and projections at the setting of its FPPT and the firm's condition and attained goals at the request for extension. The BDS shall not complete the "Evaluation Factors-Summary," but may make a recommendation regarding the firm's request for extension. The BDS and the ADD/MSB&COD shall forward the request together with any information which they feel may be relevant to the final decision by the AA/MSB&COD to the district director. (ii) The district director shall forward the request, without further processing, directly to the Regional Administrator who shall forward the request together with any information or comments which he/she feels may be relevant to the final decision to the AA/MSB&COD as expeditiously as possible. *			
		EFFECTIVE DATE	PAGE
		11-1-82	162.5

S.O.P. CONTINUATION SHEET	S.O.P.		REV
	SECTION	NO.	
	80	05	F
108.1			
* (b) For firms receiving original terms of more than two years: (i) The district BDS and the ADD/MSB&COD shall process the request in accordance with the procedures outlined below, and shall forward the request together with their evaluation and recommendation to the district director. (ii) The district director shall review the recommendation and supporting documentation, and shall forward the request and his/her recommendation through channels to the regional administrator. (iii) The regional administrator shall review the recommendation and the supporting documentation, and shall forward his/her recommendation to the AA/MSB&COD. (2) In those cases where a BDS analysis is required, the BDS shall conduct the analysis of the business plan and supporting documentation in accordance with the criteria for determining extensions of FPPT's using the attached "Evaluation Factors for Fixed Program Participation Term Extension" (Appendixes 51-55). A recommendation for the extension of a firm's FPPT can be made under the following circumstances: (a) The firm, through no fault of its own, has failed to make the progress anticipated at the time its FPPT was set. (b) The firm has demonstrated compelling extenuating circumstances, or other facts to warrant an extension of its FPPT. (c) An error was made by SBA in the fixing of the original FPPT. (3) Evaluation of a firm's request for an extension of its FPPT will be based in part on a comparison of the firm's economic position and projected goals as of the date of the setting of the FPPT with the firm's economic position and attained goals as of the date of the request for extension. *			
		EFFECTIVE DATE	PAGE
		11-1-82	162.6

S.O.P. CONTINUATION SHEET	S.O.P.		REV
	SECTION	NO.	
	80	05	P
108.1			
* (a) Economic Disadvantage Factor; Significant improvement in personal and business assets, personal and business net worth and business profits is an indicator that the firm has progressed during its FPPT tenure in the 8(a) program. Similarly, greater accessibility to capital and credit, bonding and the competitive market all indicate that the firm has benefited from its program participation. Under most circumstances, a firm that has enjoyed increases in most categories and few or no decreases, would not qualify for an extension of its FPPT based on the economic disadvantage factor alone, unless such increases reflect an economic position which is significantly lower than the projected goals. (b) All Other Factors; Levels of support through the 8(a) Program—8(a) contracts, advance payments and business development expense— and non-8(a) support, and the percentages of decrease or increase in reliance on such support were projected over the entire period of the firm's FPPT. Therefore, firms which have exceeded or met the projected levels of support and projected percentage of decrease (increase) in reliance on the support have more than realized the benefits anticipated at the time the firm's FPPT was set. If the firm has nearly attained its projections, the evaluator must examine the last year of the projections to determine whether the firm's final year of the program participation would allow full realization of its goals. If so, an extension of the FPPT would not be warranted. If a firm has fallen far short of its goals, the evaluator must examine SBA's efforts to provide support to the firm. In the case of 8(a) contract support, if, despite the agency's best efforts, contract support could not be provided, an extension may be warranted. With regard to non-8(a) support, if the firm has fallen significantly short of its projections, the evaluator must look to the cause of such failure and rely on information provided by the firm to justify its inability to procure non-8(a) contracts. An extension of the firm's FPPT may be warranted if the firm, through no fault of its own, has failed to attain its non-8(a) contract support goals, and if an extension would serve to allow the firm ample time to realize these goals. *			
		EFFECTIVE DATE	PAGE
		11-1-82	162.7

S.O.P. CONTINUATION SHEET	S.O.P.		REV												
	SECTION	NO.													
	80	05	F												
108.1															
* (4) The BDS shall evaluate the firm in accordance with the evaluation factors, and shall add to his/her evaluation a discussion of any extenuating circumstances presented by the firm. Based on that evaluation, the BDS shall recommend: (a) Approval of the FPPT extension requested by the firm; (b) Approval of an FPPT extension less than that requested by the firm; (c) Decline of the firm's request for extension. (5) In no case may the total recommended extension result in a firm's FPPT plus extension exceeding seven years; <table border="0"> <thead> <tr> <th><u>Original FPPT</u></th><th><u>Maximum Extension</u></th></tr> </thead> <tbody> <tr> <td>1 year</td><td>6 years</td></tr> <tr> <td>2 years</td><td>5 years</td></tr> <tr> <td>3 years</td><td>4 years</td></tr> <tr> <td>4 years</td><td>3 years</td></tr> <tr> <td>5 years</td><td>2 years</td></tr> </tbody> </table> Despite these allowable maximums, it is not anticipated that a firm granted an original FPPT of less than three years would subsequently be granted the maximum extension. (6) The AA/MSB&COD shall have final authority to approve the firm's request for extension, approve an extension less than that requested or deny any extension. (7) The firm shall be advised in writing by certified mail, return receipt requested, by the AA/MSB&COD of the agency's final decision. (8) Notwithstanding the approval of an extension, SBA may initiate termination actions in accordance with the provisions of the Code of Federal Regulations, 13 C.F.R. 124.1-1(e). (9) At the conclusion of the firm's FPPT plus extension, if any, the concern will cease to be a program participant. *				<u>Original FPPT</u>	<u>Maximum Extension</u>	1 year	6 years	2 years	5 years	3 years	4 years	4 years	3 years	5 years	2 years
<u>Original FPPT</u>	<u>Maximum Extension</u>														
1 year	6 years														
2 years	5 years														
3 years	4 years														
4 years	3 years														
5 years	2 years														
		EFFECTIVE DATE	PAGE												
		11-1-82	162.8												

S.O.P. CONTINUATION SHEET	S.O.P.		REV
	SECTION	NO.	
	80	05	F
108.1 * Cessation of program participation shall not be subject to the hearings or other requirements of Section 8(a)9 of the Small Business Act, 15 U.S.C. 637(a)(9) or any implementing rules or regulations.			
		EFFECTIVE DATE	PAGE
		11-1-82	162.9

S.O.P. CONTINUATION SHEET	S.O.P.		REV
	SECTION	NO.	
	80	05	F

* APPENDIX 12 *

(Paragraph 78)

UNIFORM PROCUREMENT INSTRUMENT
IDENTIFICATION NUMBERING PROCEDURE

1. INTRODUCTION

This appendix prescribes procedures for assigning an identifying number to all contracts and to other instruments related thereto, including solicitation documents and delivery orders, as applicable to contracts between SBA and the approved 8(a) contractor.

2. BASIC IDENTIFICATION NUMBER

a. Elements of Number

The basic number shall be retained for the life of the contract and/or particular instrument, and shall consist of 8 numeric characters positioned as follows:

(1) The first position shall be used by the respective region coded as follows:

1 - Boston, Mass.	6 - Dallas, Texas
2 - New York, N. Y.	7 - Kansas City, Mo.
3 - Philadelphia, Penna.	8 - Denver, Colo.
4 - Atlanta, Georgia	9 - San Francisco, Ca.
5 - Chicago, Illinois	0 - Seattle, Wash.

(2) The second and third position shall be used to identify the fiscal year of the contract.

(3) The fourth position shall designate the origin of the procurement as follows:

1 - National Buy

2 - Local Buy

"For contracts that were in the automated 8(a) FIS prior to March 16, 1981 this position contains a zero (0)."

EFFECTIVE DATE	PAGE
11-1-82	223

SBA FORM 939A (3-75) REF SOP 00 23 4

S.O.P. CONTINUATION SHEET	S.O.P.		REV
	SECTION	NO.	
	80	05	2
* APPENDIX 12 * by a numeric serial number commencing with "9". Notification of these actions should be sent to the computer system as a modification type action and shall be numbered by use of a numeric serial number commencing with "1". b. Where the tripartite instrument is utilized and where orders are issued by the procuring agency, the numbering sequence will be that of the issuing agency, <u>not</u> SBA. c. Modifications to contracts, or amendments to solicitations, will be made by the use of SF-30, or the form normally used by the procuring activity. d. Delivery orders will be issued on DD Forms 1154 for DOD contracts or SF-147 "Orders for Supplies or Services" for other agencies. There is no difference in approach to "call" orders as opposed to delivery orders.			
EFFECTIVE DATE			PAGE
11-1-82			224.1

S.O.P. CONTINUATION SHEET	S.O.P.		REV				
	SECTION	NO.	F				
	80	05	F				
* APPENDIX 51 * (Paragraph 108.1) <u>ECONOMIC DISADVANTAGE FACTOR</u> (Model Format) For each category, place an (x) in the appropriate space to indicate the status of the firm or eligible individual(s) as of the date of the setting of the firm's original FPPT (left column), and as of the date of the request for extension (right column). 1. Personal Assets ^{1/} <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> At setting of FPPT _____ 25,000 and below _____ 25,001 to 100,000 _____ 100,001 to 500,000 _____ 500,001 and above </td> <td style="width: 50%; vertical-align: top;"> At request for extension _____ 25,000 and below _____ 25,001 to 100,000 _____ 100,001 to 500,000 _____ 500,001 and above </td> </tr> </table> 2. Business Assets <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> At setting of FPPT _____ 25,000 and below _____ 25,001 to 100,000 _____ 100,001 to 500,000 _____ 500,001 and above </td> <td style="width: 50%; vertical-align: top;"> At request for extension _____ 25,000 and below _____ 25,001 to 100,000 _____ 100,001 to 500,000 _____ 500,001 and above </td> </tr> </table> ^{1/} Use average of individuals upon whom eligibility is based if more than one. Do <u>not</u> include value of 8(a) business in personal assets. SBA Proposed Form 1326 (11-82)				At setting of FPPT _____ 25,000 and below _____ 25,001 to 100,000 _____ 100,001 to 500,000 _____ 500,001 and above	At request for extension _____ 25,000 and below _____ 25,001 to 100,000 _____ 100,001 to 500,000 _____ 500,001 and above	At setting of FPPT _____ 25,000 and below _____ 25,001 to 100,000 _____ 100,001 to 500,000 _____ 500,001 and above	At request for extension _____ 25,000 and below _____ 25,001 to 100,000 _____ 100,001 to 500,000 _____ 500,001 and above
At setting of FPPT _____ 25,000 and below _____ 25,001 to 100,000 _____ 100,001 to 500,000 _____ 500,001 and above	At request for extension _____ 25,000 and below _____ 25,001 to 100,000 _____ 100,001 to 500,000 _____ 500,001 and above						
At setting of FPPT _____ 25,000 and below _____ 25,001 to 100,000 _____ 100,001 to 500,000 _____ 500,001 and above	At request for extension _____ 25,000 and below _____ 25,001 to 100,000 _____ 100,001 to 500,000 _____ 500,001 and above						
		EFFECTIVE DATE	PAGE				
		11-1-82	341				

S.O.P. CONTINUATION SHEET		S.O.P.		REV				
		SECTION	NO.					
		80	05	F				
APPENDIX 51								
3. Personal Net Worth ^{2/} <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> At setting of FPPT ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 250,000 ____ 250,001 to 500,000 ____ 500,001 to 750,000 ____ 750,001 to 1,000,000 ____ over 1,000,000 </td> <td style="width: 50%; vertical-align: top;"> At request for extension ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 250,000 ____ 250,001 to 500,000 ____ 500,001 to 750,000 ____ 750,001 to 1,000,000 ____ over 1,000,000 </td> </tr> </table> 4. Business Net Worth <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> At setting of FPPT ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 250,000 ____ 250,001 to 500,000 ____ 500,001 to 750,000 ____ 750,001 to 1,000,000 ____ over 1,000,000 </td> <td style="width: 50%; vertical-align: top;"> At request for extension ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 250,000 ____ 250,001 to 500,000 ____ 500,001 to 750,000 ____ 750,001 to 1,000,000 ____ over 1,000,000 </td> </tr> </table> ^{2/} Use average of individuals upon whom eligibility is based if more than one. Do <u>not</u> include value of 8(a) business in personal net worth. SBA Proposed Form 1326 (11-82)					At setting of FPPT ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 250,000 ____ 250,001 to 500,000 ____ 500,001 to 750,000 ____ 750,001 to 1,000,000 ____ over 1,000,000	At request for extension ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 250,000 ____ 250,001 to 500,000 ____ 500,001 to 750,000 ____ 750,001 to 1,000,000 ____ over 1,000,000	At setting of FPPT ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 250,000 ____ 250,001 to 500,000 ____ 500,001 to 750,000 ____ 750,001 to 1,000,000 ____ over 1,000,000	At request for extension ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 250,000 ____ 250,001 to 500,000 ____ 500,001 to 750,000 ____ 750,001 to 1,000,000 ____ over 1,000,000
At setting of FPPT ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 250,000 ____ 250,001 to 500,000 ____ 500,001 to 750,000 ____ 750,001 to 1,000,000 ____ over 1,000,000	At request for extension ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 250,000 ____ 250,001 to 500,000 ____ 500,001 to 750,000 ____ 750,001 to 1,000,000 ____ over 1,000,000							
At setting of FPPT ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 250,000 ____ 250,001 to 500,000 ____ 500,001 to 750,000 ____ 750,001 to 1,000,000 ____ over 1,000,000	At request for extension ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 250,000 ____ 250,001 to 500,000 ____ 500,001 to 750,000 ____ 750,001 to 1,000,000 ____ over 1,000,000							
		EFFECTIVE DATE		PAGE				
		11-1-82		342				

S.O.P. CONTINUATION SHEET		S.O.P.		REV						
SECTION		NO.		F						
80		05		F						
APPENDIX 51										
5. Personal Income ^{3/} (2 yr. average) <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> At setting of FPPT ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 150,000 ____ 150,001 and above </td> <td style="width: 50%; vertical-align: top;"> At request for extension ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 150,000 ____ 150,001 and above </td> </tr> </table> 6. Business Income (Gross Sales) ^{4/} <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> At setting of FPPT ____ 200,000 and below ____ 200,001 to 500,000 ____ 500,001 to 1,500,000 ____ 1,500,001 and above </td> <td style="width: 50%; vertical-align: top;"> At request for extension ____ 200,000 and below ____ 200,001 to 500,000 ____ 500,001 to 1,500,000 ____ 1,500,001 and above </td> </tr> </table> 7. Business Profits ^{5/} <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> At setting of FPPT ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 150,000 ____ 150,001 and above </td> <td style="width: 50%; vertical-align: top;"> At request for extension ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 150,000 ____ 150,001 and above </td> </tr> </table> ^{3/} Use average of individuals upon whom eligibility is based if more than one. ^{4/} Immediate past two company fiscal year average ^{5/} Immediate past two company fiscal year average, before taxes SBA Proposed Form 1326 (11-82)					At setting of FPPT ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 150,000 ____ 150,001 and above	At request for extension ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 150,000 ____ 150,001 and above	At setting of FPPT ____ 200,000 and below ____ 200,001 to 500,000 ____ 500,001 to 1,500,000 ____ 1,500,001 and above	At request for extension ____ 200,000 and below ____ 200,001 to 500,000 ____ 500,001 to 1,500,000 ____ 1,500,001 and above	At setting of FPPT ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 150,000 ____ 150,001 and above	At request for extension ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 150,000 ____ 150,001 and above
At setting of FPPT ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 150,000 ____ 150,001 and above	At request for extension ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 150,000 ____ 150,001 and above									
At setting of FPPT ____ 200,000 and below ____ 200,001 to 500,000 ____ 500,001 to 1,500,000 ____ 1,500,001 and above	At request for extension ____ 200,000 and below ____ 200,001 to 500,000 ____ 500,001 to 1,500,000 ____ 1,500,001 and above									
At setting of FPPT ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 150,000 ____ 150,001 and above	At request for extension ____ 20,000 and below ____ 20,001 to 50,000 ____ 50,001 to 150,000 ____ 150,001 and above									
		EFFECTIVE DATE	PAGE							
		11-1-82	343							

S.O.P. CONTINUATION SHEET		S.O.P.		REV
		SECTION	NO.	F
		80	05	F
APPENDIX 51				
8. Access to Credit and Capital				
a. Ability to Obtain Working Capital from Commercial Sources				
At setting of FPPT		At request for extension		
___ Financing generally unavailable		___ Financing generally unavailable		
___ Financing not available at reasonable terms and/or without government guarantees		___ Financing not available at reasonable terms and/or without government guarantees		
___ Financing available at reasonable rates without guarantees		___ Financing available at reasonable rates without guarantees		
b. Ability to Obtain Long Term Financing from Commercial Sources				
At setting of FPPT		At request for extension		
___ Financing generally unavailable		___ Financing generally unavailable		
___ Financing not available at reasonable terms and/or without government guarantees		___ Financing not available at reasonable terms and/or without government guarantees		
___ Financing available at reasonable rates without guarantees		___ Financing available at reasonable rates without guarantees		
c. Ability to Obtain Trade Credit for Raw Materials and/or Supplies				
At setting of FPPT		At request for extension		
___ Vendors will not extend normal credit		___ Vendors will not extend normal credit		
___ Vendors will extend normal credit terms		___ Vendors will extend normal credit terms		
d. Ability to Obtain Credit Terms for Equipment				
At setting of FPPT		At request for extension		
___ Vendors will not extend normal credit		___ Vendors will not extend normal credit		
___ Vendors will extend normal credit terms		___ Vendors will extend normal credit terms		
SBA Proposed Form 1326 (11-82)		EFFECTIVE DATE	PAGE	
		11-1-82	344	

S.O.P. CONTINUATION SHEET		S.O.P.		REV		
		SECTION	NO.			
		80	05	F		
APPENDIX 51						
9. Bonding Capability <table style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> At setting of FPPT ☐ Bonding unavailable or not required ☐ Bonding available only with guarantees or higher rates ☐ Bonding available at prevailing rates without guarantees </td> <td style="width: 50%; vertical-align: top;"> At request for extension ☐ Bonding unavailable or not required ☐ Bonding available only with guarantees or higher rates ☐ Bonding available at prevailing rates without guarantees </td> </tr> </table>					At setting of FPPT ☐ Bonding unavailable or not required ☐ Bonding available only with guarantees or higher rates ☐ Bonding available at prevailing rates without guarantees	At request for extension ☐ Bonding unavailable or not required ☐ Bonding available only with guarantees or higher rates ☐ Bonding available at prevailing rates without guarantees
At setting of FPPT ☐ Bonding unavailable or not required ☐ Bonding available only with guarantees or higher rates ☐ Bonding available at prevailing rates without guarantees	At request for extension ☐ Bonding unavailable or not required ☐ Bonding available only with guarantees or higher rates ☐ Bonding available at prevailing rates without guarantees					
10. Availability of Outside Equity <table style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> At setting of FPPT ☐ Equity unavailable ☐ Equity unavailable at customary terms and conditions ☐ Equity available at customary terms and conditions </td> <td style="width: 50%; vertical-align: top;"> At request for extension ☐ Equity unavailable ☐ Equity unavailable at customary terms and conditions ☐ Equity available at customary terms and conditions </td> </tr> </table>					At setting of FPPT ☐ Equity unavailable ☐ Equity unavailable at customary terms and conditions ☐ Equity available at customary terms and conditions	At request for extension ☐ Equity unavailable ☐ Equity unavailable at customary terms and conditions ☐ Equity available at customary terms and conditions
At setting of FPPT ☐ Equity unavailable ☐ Equity unavailable at customary terms and conditions ☐ Equity available at customary terms and conditions	At request for extension ☐ Equity unavailable ☐ Equity unavailable at customary terms and conditions ☐ Equity available at customary terms and conditions					
11. Available Markets <table style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> At setting of FPPT ☐ Limited penetration of competitive market ☐ Moderate success with competitive market penetration ☐ Successful penetration into competitive market </td> <td style="width: 50%; vertical-align: top;"> At request for extension ☐ Limited penetration of competitive market ☐ Moderate success with competitive market penetration ☐ Successful penetration into competitive market </td> </tr> </table>					At setting of FPPT ☐ Limited penetration of competitive market ☐ Moderate success with competitive market penetration ☐ Successful penetration into competitive market	At request for extension ☐ Limited penetration of competitive market ☐ Moderate success with competitive market penetration ☐ Successful penetration into competitive market
At setting of FPPT ☐ Limited penetration of competitive market ☐ Moderate success with competitive market penetration ☐ Successful penetration into competitive market	At request for extension ☐ Limited penetration of competitive market ☐ Moderate success with competitive market penetration ☐ Successful penetration into competitive market					
SBA Proposed Form 1326 (11-82)						
		EFFECTIVE DATE	PAGE			
		11-1-82	345			

S.O.P. CONTINUATION SHEET	S.O.P.		REV
	SECTION	CD.	
	80	05	P
* APPENDIX 52 * (paragraph 108.1) <u>8(a) CONTRACT SUPPORT FACTOR</u> (Model Format) For each category, place an (x) in the appropriate space to indicate the projected levels of support and percentage of decrease or increase in support projected over the firm's FPPT (left column), and actual levels of support and percentage of decrease or increase during the period of the firm's FPPT to the date of the request for extension (right column).			
1. Total projected levels of 8(a) support over firm's proposed FPPT ☐ 1,000,000 and below ☐ 1,000,001 to 2,000,000 ☐ 2,000,001 and above			
Actual levels of 8(a) contract support over firm's FPPT to date ☐ 1,000,000 and below ☐ 1,000,001 to 200,000 ☐ 200,001 and above			
2. Percentage of decrease over firm's proposed FPPT ☐ 50% or more decrease ☐ less than 50% decrease ☐ no decrease			
Actual percentage of decrease (increase) over firm's FPPT to date ☐ 50% or more decrease ☐ less than 50% decrease ☐ no decrease ☐ increase			
(Calculation: Year 1 of FPPT projected 8(a) dollars minus final year of FPPT projected 8(a) dollars divided by year 1 of FPPT projected 8(a) dollars = % decrease) (Calculation: Actual 1st year of 8(a) dollars minus last full year 8(a) dollars divided by actual 1st year 8(a) dollars = % decrease)			
SBA Proposed Form 1327 (11-82)			
		EFFECTIVE DATE	PAGE
		11-1-82	347

S.O.P. CONTINUATION SHEET	S.O.P.		REV		
	SECTION	NO.	P		
	80	05	F		
* APPENDIX 53 * (paragraph 108.1) <u>NON 8(a) CONTRACT SUPPORT FACTOR</u> (Model Format) For each category, place an (x) in the appropriate space to indicate the projected levels of support and percentage of decrease or increase in support projected over the firm's FPPT (left column), and actual levels of support and percentage of decrease or increase during the period of the firm's FPPT to the date of the request for extension (right column). <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; padding: 5px;"> 1. Total projected levels of non-8(a) contract support over firm's proposed FPPT _____ 1,000,000 and below _____ 1,000,001 to 2,000,000 _____ 2,000,001 and above 2. Percentage of decrease (over firm's proposed FPPT) _____ 100% _____ 50% to 98% _____ less than 50% or no increase </td> <td style="width: 50%; vertical-align: top; padding: 5px;"> Actual levels of non-8(a) contract support over firm's FPPT to date _____ 1,000,000 and below _____ 1,000,001 to 200,000 _____ 2,000,001 and above Actual percentage of decrease (increase) over firm's FPPT to date _____ 100% _____ 50% to 98% _____ less than 50% or no increase _____ decrease </td> </tr> </table> (Calculation: Final year of FPPT projected non-8(a) dollars minus year 1 of FPPT projected non-8(a) dollars divided by year 1 of FPPT projected dollars) (Calculation: Actual last full year non-8(a) dollars minus year 1 of FPPT non-8(a) dollars divided by year 1 of non 8(a) dollars) SBA Proposed Form 1328 (11-82)				1. Total projected levels of non-8(a) contract support over firm's proposed FPPT _____ 1,000,000 and below _____ 1,000,001 to 2,000,000 _____ 2,000,001 and above 2. Percentage of decrease (over firm's proposed FPPT) _____ 100% _____ 50% to 98% _____ less than 50% or no increase	Actual levels of non-8(a) contract support over firm's FPPT to date _____ 1,000,000 and below _____ 1,000,001 to 200,000 _____ 2,000,001 and above Actual percentage of decrease (increase) over firm's FPPT to date _____ 100% _____ 50% to 98% _____ less than 50% or no increase _____ decrease
1. Total projected levels of non-8(a) contract support over firm's proposed FPPT _____ 1,000,000 and below _____ 1,000,001 to 2,000,000 _____ 2,000,001 and above 2. Percentage of decrease (over firm's proposed FPPT) _____ 100% _____ 50% to 98% _____ less than 50% or no increase	Actual levels of non-8(a) contract support over firm's FPPT to date _____ 1,000,000 and below _____ 1,000,001 to 200,000 _____ 2,000,001 and above Actual percentage of decrease (increase) over firm's FPPT to date _____ 100% _____ 50% to 98% _____ less than 50% or no increase _____ decrease				
		EFFECTIVE DATE	PAGE		
		11-1-82	349		

SBA FORM 909A (3-79) REF SOP 00 23 4

S.O.P. CONTINUATION SHEET	S.O.P.		REV		
	SECTION	NO.			
	80	05	F		
* APPENDIX 54 * (paragraph 108.1) <u>ADVANCE PAYMENT FACTOR</u> (Model Format) For each category, place an (x) in the appropriate space to indicate the projected levels of support and percentage of decrease or increase in support projected over the firm's FPPT (left column), and actual levels of support and percentage of decrease or increase during the period of the firm's FPPT to the date of the request for extension (right column). <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; padding: 5px;"> 1. Projected Advance Payments necessary to complete contracts over the proposed FPPT ☐ 200,000 and below ☐ 200,001 and above 2. Projected decrease in reliance upon Advance Payments over proposed FPPT ☐ 50% or more decrease or no reliance ☐ less than 50% decrease ☐ no decrease </td> <td style="width: 50%; vertical-align: top; padding: 5px;"> Actual Advance Payments necessary to complete contracts over the FPPT to date ☐ 200,000 and below ☐ 200,001 and above Actual decrease (increase) in reliance upon Advance Payments over the FPPT to date ☐ 50% or more decrease or no reliance ☐ less than 50% decrease ☐ no decrease ☐ increase </td> </tr> </table> (Calculation: Year 1 of FPPT projected AP dollars minus final year of FPPT projected AP dollars divided by year 1 of FPPT projected AP dollars = % decrease) (Calculation: Year 1 of FPPT AP dollars minus last full year AP dollars divided by year 1 of FPPT AP dollars = % decrease) SBA Proposed Form 1329 (11-82)				1. Projected Advance Payments necessary to complete contracts over the proposed FPPT ☐ 200,000 and below ☐ 200,001 and above 2. Projected decrease in reliance upon Advance Payments over proposed FPPT ☐ 50% or more decrease or no reliance ☐ less than 50% decrease ☐ no decrease	Actual Advance Payments necessary to complete contracts over the FPPT to date ☐ 200,000 and below ☐ 200,001 and above Actual decrease (increase) in reliance upon Advance Payments over the FPPT to date ☐ 50% or more decrease or no reliance ☐ less than 50% decrease ☐ no decrease ☐ increase
1. Projected Advance Payments necessary to complete contracts over the proposed FPPT ☐ 200,000 and below ☐ 200,001 and above 2. Projected decrease in reliance upon Advance Payments over proposed FPPT ☐ 50% or more decrease or no reliance ☐ less than 50% decrease ☐ no decrease	Actual Advance Payments necessary to complete contracts over the FPPT to date ☐ 200,000 and below ☐ 200,001 and above Actual decrease (increase) in reliance upon Advance Payments over the FPPT to date ☐ 50% or more decrease or no reliance ☐ less than 50% decrease ☐ no decrease ☐ increase				
		EFFECTIVE DATE	PAGE		
		11-1-82	351		

S.G.P. CONTINUATION SHEET	S.G.P.		REV		
	SECTION	NO.			
	80	05	F		
* APPENDIX 55 * (paragraph 108.1) <u>BUSINESS DEVELOPMENT EXPENSE FACTOR</u> (Model Format) For each category, place an (x) in the appropriate space to indicate the projected levels of support and percentage of decrease or increase in support projected over the firm's FPPT (left column), and actual levels of support and percentage of decrease or increase during the period of the firm's FPPT to the date of the request for extension (right column). <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; padding: 5px;"> 1. Projected BDE necessary to complete contracts over proposed FPPT _____ 200,000 and below _____ 200,001 and above 2. Projected decrease in reliance upon BDE over proposed FPPT _____ 50% or more decrease or no reliance _____ less than 50% decrease _____ no decrease (Calculation: Year 1 of FPPT projected BDE dollars minus final year of FPPT projected BDE dollars divided by year 1 of FPPT projected BDE dollars = % decrease) </td> <td style="width: 50%; vertical-align: top; padding: 5px;"> Actual BDE necessary to complete contracts over FPPT to date _____ 200,000 and below _____ 200,001 and above Actual decrease (increase) in reliance upon BDE over FPPT to date _____ 50% or more decrease or no reliance _____ less than 50% decrease _____ no decrease _____ increase (Calculation: Year 1 of FPPT BDE dollars minus last full year of BDE dollars divided by year 1 of BDE dollars = % decrease) </td> </tr> </table> SBA Proposed Form 1330 (11-82)				1. Projected BDE necessary to complete contracts over proposed FPPT _____ 200,000 and below _____ 200,001 and above 2. Projected decrease in reliance upon BDE over proposed FPPT _____ 50% or more decrease or no reliance _____ less than 50% decrease _____ no decrease (Calculation: Year 1 of FPPT projected BDE dollars minus final year of FPPT projected BDE dollars divided by year 1 of FPPT projected BDE dollars = % decrease)	Actual BDE necessary to complete contracts over FPPT to date _____ 200,000 and below _____ 200,001 and above Actual decrease (increase) in reliance upon BDE over FPPT to date _____ 50% or more decrease or no reliance _____ less than 50% decrease _____ no decrease _____ increase (Calculation: Year 1 of FPPT BDE dollars minus last full year of BDE dollars divided by year 1 of BDE dollars = % decrease)
1. Projected BDE necessary to complete contracts over proposed FPPT _____ 200,000 and below _____ 200,001 and above 2. Projected decrease in reliance upon BDE over proposed FPPT _____ 50% or more decrease or no reliance _____ less than 50% decrease _____ no decrease (Calculation: Year 1 of FPPT projected BDE dollars minus final year of FPPT projected BDE dollars divided by year 1 of FPPT projected BDE dollars = % decrease)	Actual BDE necessary to complete contracts over FPPT to date _____ 200,000 and below _____ 200,001 and above Actual decrease (increase) in reliance upon BDE over FPPT to date _____ 50% or more decrease or no reliance _____ less than 50% decrease _____ no decrease _____ increase (Calculation: Year 1 of FPPT BDE dollars minus last full year of BDE dollars divided by year 1 of BDE dollars = % decrease)				
		EFFECTIVE DATE	PAGE		
		11-1-82	353		

S.O.P. CONTINUATION SHEET	S.O.P.		REV
	SECTION	NO.	F
	80	05	F

* APPENDIX 56 *

(paragraph 108.1)

EVALUATION FACTORS

SUMMARY (Model Format)

For each economic disadvantage factor, place an (x) in the appropriate space to indicate whether there has been an increase, decrease or no change in the sub-group within each category during the firm's FYPT. For each column, enter the total number of changes.

For other factors, place an (x) in the appropriate space to indicate whether the firm exceeded, met or failed to meet the projected goals and percentages of decrease or increase in reliance upon support.

	Increase	Same	Decrease
A. Economic Disadvantage Factors			
1. Personal Assets	_____	_____	_____
2. Business Assets	_____	_____	_____
3. Personal Net Worth	_____	_____	_____
4. Business Net Worth	_____	_____	_____
5. Personal Income	_____	_____	_____
6. Business Income	_____	_____	_____
7. Business Profits	_____	_____	_____
8. Access to Capital and Credit			
a. Working Capital	_____	_____	_____
b. Long Term Financing	_____	_____	_____
c. Trade Credit	_____	_____	_____
d. Equipment	_____	_____	_____
9. Bonding Capability	_____	_____	_____

SBA Proposed Form 1331 (11-82)

EFFECTIVE DATE	PAGE
11-1-82	355

S.O.P. CONTINUATION SHEET	S.O.P.		REV
	SECTION	NO.	P
	80	05	F
APPENDIX 56			
10. Availability of Outside Equity	_____	_____	_____
11. Available Markets	_____	_____	_____
TOTALS (In numbers)	_____	_____	_____
Summarize change in economic disadvantage factors since the firm's original FPPT was set:			
Based on economic disadvantage factors, alone, is an extension of the firm's FPPT warranted? Yes _____ No _____			
Explain: _____			
B. <u>8(a) Contract Support Factor</u>	Exceeded	Met	Failed to Meet
1. Levels of 8(a) contract support	_____	_____	_____
2. Percentage of decrease in 8(a) contract support	_____	_____	_____
TOTALS (In numbers)	_____	_____	_____
Has SBA provided the levels of 8(a) contract support anticipated at the time the firm's original FPPT was set? Yes _____ No _____			
If not, why not? _____			
Has the firm demonstrated a decreasing dependency on 8(a) contract support since its original FPPT was set? Yes _____ No _____			
If not, why not? _____			
SBA Proposed Form 1331 (11-82)			
		EFFECTIVE DATE 11-1-82	PAGE 356

I.O.P. CONTINUATION SHEET	I.O.P.		REV
	SECTION	NO.	F
80	05	F	
APPENDIX 56			
Summarize 8(a) contract support factor since the firm's original FPPT was set (number and aggregate dollar value of contracts in relation to projections): _____ _____			
Based on contract support factor, alone, is an extension of the firm's FPPT warranted? Yes _____ No _____ Explain: _____ _____			
C. Non-8(a) Contract Support Factor	Exceeded	Met	Failed to Meet
1. Levels of non 8(a) contract support	_____	_____	_____
2. Percentage of increase in non 8(a) contract support	_____	_____	_____
TOTALS (In numbers)	_____	_____	_____
Has the 8(a) business concern attained the levels of non-8(a) contract support anticipated at the time the firm's original FPPT was set? Yes _____ No _____ If not, why not? _____ _____			
Has the firm demonstrated an increasing reliance on non-8(a) contracts? Yes _____ No _____ If not, why not? _____ _____			
Summarize non-8(a) contract support factor since the firm's original FPPT was set: _____ _____			
SBA Proposed Form 1331 (11-82)		EFFECTIVE DATE	PAGE
		11-1-82	357

S.O.P. CONTINUATION SHEET	S.O.P.		REV
	SECTION	NO.	
	80	05	F

APPENDIX 56

Based on non-8(a) contract support factor, alone, is an extension of the firm's FPPT warranted? Yes _____ No _____

Explain: _____

Exceeded Met Failed to Meet

D. Advance Payment Factor

1. Levels of Advance Payment support _____

2. Percentage of decrease in Advance Payment support _____

TOTALS (In numbers) _____

Has SBA provided the levels of Advance Payment support anticipated at the time the firm's original FPPT was set? Yes _____ No _____

If not, why not? _____

Has the firm demonstrated a decreasing dependency on Advance Payment support? Yes _____ No _____

If not, why not? _____

Summarize Advance Payment support factor since the firm's original FPPT was set: _____

Based on Advance Payment support factor, alone, is an extension of the firm's FPPT warranted? Yes _____ No _____

Explain: _____

SBA Proposed Form 1331 (11-82)

EFFECTIVE DATE	PAGE
11-1-82	358

S.O.P. CONTINUATION SHEET	S.O.P.		REV
	SECTION	NO.	
	80	05	F

APPENDIX 56

E. Business Development Expense Factor

	Exceeded	Met	Failed to Meet
1. Levels of Business Development Expense support	_____	_____	_____
2. Percentage of decrease in Business Development Expense support	_____	_____	_____
TOTALS (In numbers)	_____	_____	_____

Has SBA provided the levels of Business Development Expense support anticipated at the time the firm's original FPPT was set?
 Yes _____ No _____

If not, why not? _____

Has the firm demonstrated a decreasing dependency on Business Development Expense support? Yes _____ No _____

If not, why not? _____

Summarize Business Development Expense support since the firm's original FPPT was set:

Based on Business Development Expense support factor, alone, is an extension of the firm's FPPT warranted? Yes _____ No _____

Explain: _____

SBA Proposed Form 1331 (11-82)

EFFECTIVE DATE	PAGE
11-1-82	359

S.O.P. CONTINUATION SHEET	S.O.P.		REV
	SECTION	NO.	F
	80	05	F
APPENDIX 56			
P. Other Considerations Has the firm provided a narrative summary detailing extenuating circumstances, unique to the firm, or other facts which cause an extension to be necessary and appropriate? Yes _____ No _____ Summarize: _____ _____ _____ _____ _____ Does the narrative summary support the granting of an extension? Yes _____ No _____ Justification: _____ _____ _____ _____ _____ G. Recommendation: _____ Extension for _____ years as requested by the firm. _____ Extension for _____ years (Less than extension requested by firm). _____ No extension. ORIGINAL FPPT _____ EXTENSION RECOMMENDED _____ TOTAL FPPT PLUS EXTENSION _____ (IN NO CASE MAY THE TOTAL FPPT PLUS EXTENSION EXCEED SEVEN YEARS)			
SBA Proposed Form 1331 (11-82)		EFFECTIVE DATE 11-1-82	PAGE 360

PART 124-MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT ASSISTANCE
SBA RULES AND REGULATIONS

FILING INSTRUCTIONS: Insert the attached pages into Part 124. Destroy old pages 3, 4, 4a, and 5. File this page immediately following Amendment 12 to Part 124.

This regulation authorizes Fixed Program Participation Terms for 8(a) concerns.

SMALL BUSINESS ADMINISTRATION**13 CFR Part 124**

Amend. 13

Minority Small Business and Capital Ownership Development Assistance**AGENCY:** Small Business Administration.**ACTION:** Final rule.

SUMMARY: This final rule adds a new subsection (§ 124.1-1(f)) to the present regulations of the Minority Small Business and Capital Ownership Development Assistance program (8(a) program) by implementing those provisions of Pub. L. 96-481 (October 21, 1980) which require SBA to establish a fixed period of time for every participant concern to enter or remain in the 8(a) program.

EFFECTIVE DATE: November 23, 1981.

FOR FURTHER INFORMATION CONTACT: Charlie L. Dean, Chief Counsel for Special Programs, Office of General Law (202) 653-6699.

SUPPLEMENTARY INFORMATION: On June 1, 1981, a proposal was published in the *Federal Register* (46 FR 23278) to amend the regulations of the Minority Small Business and Capital Ownership Development Assistance Program.

Those amendments were necessitated by the enactment of Pub. L. 96-481, 94 Stat. 2322 (October 21, 1981), which in Title I, Part A, amended section 7(j)(10) of the Small Business Act requiring SBA to establish a fixed period of time for participation in the MSB-COD program, commonly referred to as the "8(a) program."

Interested persons were given until July 31, 1981, to submit written comments. A total of two hundred and eighty-nine (289) responses were received. Because of the unusual interest, SBA held public hearings on the proposed rule in Los Angeles, California; Atlanta, Georgia; Chicago, Illinois; and Washington, D.C. during September, 1981, pursuant to a notice of public hearings published in the *Federal Register* August 24, 1981, (46 FR 42981).

At the public hearings sixty-three (63) written statements and seventy-four (74) oral statements were received into the record.

To understand the final rule adopted herein, a brief discussion of program philosophy and legislative history of Pub. L. 96-481 is helpful. Pub. L. 95-507, 92 Stat. 1760 (October 24, 1978), clearly states that the purposes of the 7(j) and 8(a) programs are to foster business ownership, to promote competitive viability, and to clarify and expand the SBA's minority enterprise program. The implication of these terms "foster" and "promote" is that the SBA take actions to improve and advance the economic well-being of firms participating in the 8(a) program. It is, however, beyond the intent of the statute and the ability of the SBA to guarantee or insure the success of participating firms.

Neither Pub. L. 96-481 nor the implementing regulations herein change the philosophy established by Pub. L. 95-507. The Senate Select Committee Report, No. 96-874, to accompany H.R. 5812 which became Pub. L. 96-481 reviewed the legislative history of Pub. L. 95-507. The Committee at page 2 found that prior to Pub. L. 95-507 the 8(a) "program lacked any specific mission beyond contract assistance," and it "failed to foster any business development." The Committee stated at page 3 that 8(a) contracts "be a means to

fostering competitive viability * * * and not an end in themselves," and Pub. L. 95-507 was designed to address those concerns. The combination of contract assistance with management and technical assistance "greatly enhanced" the opportunity for minority businesses to exist on their own without Federal assistance.

The Senate Committee reviewed SBA's management of 8(a) program completion, and concluded at page 21 that SBA had not "been sufficiently aggressive in establishing and reviewing the business plans required to be submitted."

The Senate Committee expressed concern that SBA had not moved in a timely fashion in reviewing the eligibility qualifications or the graduation potential of the portfolio. In Senator Morgan's view:

" * * * It appears to many of us in the Congress that participants in this particular Government procurement program seldom appear to move on to regular Government procurement programs or, indeed, to simply compete in the private sector, which is the ultimate purpose of the law.

It has not been the goal of the program to keep certain firms on Government contracts forever. The ultimate goal of most minority firms is to get their operations going and then

Published: November 23, 1981

Effective: November 23, 1981

Cite: 46 FR 57266

to move off into successful competition in the private sector. The continued participation of a few firms, in the absence of some compelling need, only injures those other small businessmen who could enter the marketplace through the 8(a) program."

The views of Senator Morgan are reinforced by the Comptroller General's Report dated April 8, 1981, (CED-81-55), and entitled "The SBA 8(a) procurement Program—A Promise Unfulfilled." At page 8, it states: "[T]he program has done too much for too few for too long. About \$1.7 billion, or 31 percent, of the total 8(a) contract support has gone to fifty (50) active firms. Three-fifths of these firms have been in the program between 7 and 11 years and seem to have no incentive to leave the program's umbrella.

Even though the Senate Committee decided not to establish any specific period for graduation, it agreed that without congressional direction SBA would not resolve the issue itself and therefore, proposed the amendments to section 7(j)(10) of the Small Business Act which led to the proposed rule published June 1, 1981.

SBA received two hundred and eighty-nine (289) written comments during the 60 days comment period. Sixteen (16) comments basically supported the proposed regulation, and they were from the Acting Inspector General of General Services Administration, the Federal Highway Administration, Michigan Road Builders Assn. Inc., the Associate General Contractors of America, Mechanical Contractors Assn. of America, and various small businesses.

Two hundred and six (206) comments, objecting to various provisions of the proposed regulations, were predominately from current 8(a) firms; but sixty-seven (67) of them were from trade associations, U.S. Senators, U.S. Congressmen, attorneys, and organizations including the National Association of Minority Contractors, Hispanic American Construction Industries and the National Bar Association. The one hundred and thirty-seven (137) written and oral statements received at the public hearings also raised objections, although many dealt with 8(a) program problems rather than the proposed rule.

The objections and/or recommended changes in these comments can be narrowed to the five issues discussed below.

First, it is contended that the proposed regulations are both unreasonable and contrary to the intent of Pub. L. 95-461 by establishing a ceiling on how long a 8(a) firm may participate in the 8(a) program. Ancillary to this issue, the comments suggest that the proposed time frames, three to five years, based

on industry classification, are too short; recommendations range from six to ten to twenty years. Eighty-five (85) comments stated the establishment of any maximum time for program participation is inconsistent and contrary to the intent of Pub. L. 95-461 and that the Senate Small Business Committee had rejected a five year cap because of the lack of supportive data. These comments state that SBA failed to present any empirical data to support a three to five year ceiling on 8(a) program participation. In addition, these comments suggest that the proposed regulations abandon the Congressional intent found in Pub. L. 95-507 that a firm "achieve viability" before program completion.

Pub. L. 95-461 neither fixed a maximum time for participation in the 8(a) program, nor did it specifically prohibit the setting of a maximum ceiling for program participation. In the absence of such an express statutory direction, SBA thinks it essential, in the interests of administrative feasibility, that maximum periods for program participation be retained. It is SBA's view that, without the guidance of a definite maximum time frame, the statutorily mandated negotiations for the approximately 2000 8(a) concerns currently in the program would be administratively unworkable, especially in view of the April 1982 deadline for establishing fixed program participation terms required by the statute.

Assuming the necessity for some maximum period for participation, the ancillary thrust of these negative comments then relates to the 3-5 year period for this maximum term. Many comments called for a fixed period from 10 to 20 years. Three research studies were offered in support. The three studies are: "The Report of the SBA Task Force on Venture and Equity Capital for Small Business" ("The Casey Report"), January 1977; "Tax Incentives for Small Business," James Walter, Hans Stoll, Wharton School, 1980; and "Small Business Financing: The Current Environment and Suggestion for Improvements," National Association of Security Dealers, Inc., 1979. Each of the studies uses the four-stage "Life-Cycle model" of business development which appeared originally in the Casey Report. Because of the importance and frequency of the argument, it is necessary to examine this contention closely.

In 1978, the Administrator of the SBA convened a task force to examine impediments preventing small businesses from attracting capital, and to recommend ways of overcoming

those impediments. The task force was chaired by William J. Casey, then counsel to Rogers and Wells, a New York law firm.

The task force focused its efforts on the financial problems of new, high-technology firms which had a great potential for growth and profitability. This type of firm constitutes a small segment of the universe of America's small businesses, and is significantly different from the target population of 8(a) eligible firms. To provide a framework for their findings and recommendations, the task force constructed, based on its collective experience and wisdom, a hypothetical "life-cycle of the new enterprise." It is this life cycle model that has been used in all of the studies cited.

The narrow applicability of the Casey Report illustration should be noted; for example, the Report estimated that it takes between four and eleven years for their "new enterprise" to reach a positive operating profit, and nine to twenty years for its cumulative profits to become positive. Also, their hypothetical firm reaches a revenue level of \$10 million between its fourth and eleventh year of existence, and \$40 million at maturity.

It appears to SBA that the subject of the Casey Report was not sufficiently relevant to either the development path of small businesses in general or the 8(a) client population in particular. For example, based on 1977 Enterprise Statistics, 99.5 percent of the companies in the United States had less than \$10 million in sales. The average company sales in the United States in 1977 was less than \$600,000 a year; the average construction firm's sales were about \$200,000 a year; the average manufacturing firm had annual sales of less than \$5 million per year. The same data source shows that computer and data processing firms' average sales were about a half million dollars per year.

Another reason for rejecting the implications of these reports concerning maximum participation terms is found in the nature of policy issues addressed in the Casey Report, the NASD Study, and the Walter-Stoll Study. The NASD study states, " * * * NASD organized a committee of securities industries experts to address the capital-raising problems of small business. The Walter-Stoll study states, "This report is aimed at the effect of Federal taxation on small business." The Report of the Task Force on Venture and Equity Capital for Small Business was created "to assess the financing problems of the small businessman today and to recommend

solutions." These studies are all worthy objectives, but not sufficiently relevant to the issue of designing a Fixed Program Participation Term for 8(a) concerns.

Finally, the rationale of the Casey Report and other cited studies is questioned in a recent study completed by David Birch and Susan MacCracken entitled, "Corporate Evolution: A Micro-Based Analysis." This research was completed under an SBA grant in January 1981. It examines the pattern of changes in sales and employment of 5.8 million firms between 1969 and 1976. The firms are classified by their size, age, industry, location, and corporate affiliations. Birch and MacCracken studied the usefulness of the traditional four-stage life cycle growth path of American businesses. After conducting several tests, they conclude, "There is not a great deal of support for a strong life cycle model of corporate evolution." In other words, the biological analogy of firms being born, growing, maturing, and dying, is not a typical pattern.

Summarily, based upon the foregoing, it is SBA's view that the Casey Report and other cited studies should not be used as a source of 8(a) policy guidance.

Turning now to the affirmative side of the issue, based upon its research and analysis thereof, it is SBA's view that maximum terms of five years for all participant firms is consistent with the realities of the 8(a) program operation and SBA's experience in administering the program. This is an increase of two years in the three year maximum for service companies originally proposed in the June 1, 1981, Notice of Proposed Rulemaking. In addition, SBA has decided to increase the maximum extension of the original fixed program participation term available to 8(a) concerns from one year to two years. Recognizing that this is not a determination that can be made with mathematical precision, SBA has decided to accept the recommendations of many commentators and increase the maximum terms and the maximum extension of the originally established term in this manner. Furthermore, eliminating distinctions between categories of companies should facilitate negotiations between SBA and participant concerns in establishing individual fixed program participation terms. It should be recognized, however, that the nature of a firm's operations will obviously be a factor in establishing a fixed program participation term for each firm within the limits of these maximums. For example, service firms may not normally require the maximum term.

The selection of the specific number of years constituting the maximum in these regulations involves the balancing of several factors. They include: the goals and resources of the Agency and the 8(a) program; the needs of the population of active and eligible firms; and experience regarding the natural development of business in the private sector.

In establishing maximum tenure for participation in the 8(a) program, SBA placed significant importance on the impact of that length of time on different groups of socially and economically disadvantaged firms. The universe of all these firms can be divided up into three categories:

(1) those firms which currently are active participants in the 8(a) program, i.e., they have regularly received sole source contract support, business development expense, advanced payments, and 7(j) assistance;

(2) those firms which are in the 8(a) portfolio but have not received any appreciable level of support from the program;

(3) those firms which are eligible, but not in the program. (A Department of Commerce estimate suggests there are approximately 40,000 firms eligible to participate in the 8(a) program.)

The firms in the first group, i.e., those which are in the portfolio and receiving significant assistance, would prefer the longest possible participation in the program. Firms which are in the portfolio, but which do not regularly receive support from the program, would prefer a shorter tenure in the program.

By reducing the length of participation of the firms which are obtaining significant assistance, the likelihood improves that 8(a) firms currently not receiving assistance will do so. The third group, that large population of firms that are eligible for the program but which are not in the portfolio, has an obvious preference for a short tenure requirement. The likelihood that these firms will receive any assistance from the program depends upon how rapidly the 8(a) portfolio turns over.

Some have urged that the 8(a) program become an "elitist" program by providing very large amounts of assistance to a very small number of companies. It is argued that the creation of a small cadre of "large" minority-owned firms would cause a wide range of benefits to "trickle-down" to other businesses in the disadvantaged community. In SBA's view this theory is inconsistent with the legislative mandate of the 8(a) program.

A 1980 study done at the Georgia Institute of Technology offers assistance in selecting a specific maximum number

of years for participation in the 8(a) program. This study, "Analysis of the Performance of Minority Business Development (MBDA) Client Firms" compared the performance of 22,000 minority-owned firms which had been "clients" of MBDA to a control group of 19,000 nonminority businesses for a two year period beginning April 1977. Comparisons of failure, discontinuance, and nonsurvival rates by MBDA region, age of the business, and its industrial classification were carried out. One part of this study relevant to the maximum length of time issue estimated that firms face significant economic problems somewhere in their third to fifth year of existence. The inference is that this general period represents an important time in the development of a firm, and that a positive Federal intervention at this time will provide significant assistance in the progress and survival of the concern. SBA's final regulation of a five year maximum (with a possible two year extension) would cover this important period for 8(a) firms, the preponderance of which enter the 8(a) program between the first and second year of their existence.

Additional evidence is found in the work of a 1977 Interagency Review Board which analyzed the problems of the 8(a) program and recommended solutions to those problems. The Review Board was chaired by the Deputy Administrator of SBA and three other SBA representatives served on the Board; other agencies represented on the Board were: the Departments of Defense, Energy, Transportation, Commerce, National Aeronautics and Space Administration, General Services Administration, and the Office of Management and Budget. The Board made over fifty (50) recommendations designed to eliminate abuse in the program while strengthening its capacity to deliver more and better services to 8(a) firms. The majority of the Board recommended that participation for new applicants in the 8(a) program should generally be limited to a period not to exceed seven years. A minority of the Board recommended that no fixed time limit be imposed on the program participants.

Finally, an examination of 8(a) program data shows that the average length of stay of the one-hundred and sixty-six (166) firms graduated from the 8(a) program between 1970 and 1978 was 4.2 years; the top fifty (50) firms in the 1981 portfolio, which received 35 percent of all 8(a) contracts awarded between 1971 and 1980, have been in the program, on average, for 8.5 years; the top one-hundred and fifty (150) firms in the 8(a) program, which received 67

percent of the contracts awards between 1971 and 1980 have, on average, been in the program 6.3 years.

Accordingly, it is SBA's judgment, based on extensive experience in assisting small businesses and minority businesses, that five years with the possibility of a sixth or seventh year, upon extension, is a reasonable maximum period of program participation consistent with the directive of Pub. L. 96-481 to maximize access to and graduation from the program.

Program procedures will be implemented to support the new program. To gain entry to the program, firms will have to provide detailed business plans along with personal and business financial statements. The business plan and personal financial statements will be monitored regularly to assess the progress of participating firms. The creation of a consistent and effective monitoring system will raise the sense of responsibility of both the participating firms and SBA employees.

These regulations will emphasize that the 8(a) program is an incentive program designed to induce actions. The 8(a) program will assist and support minority businesses in their quest for economic competitiveness. Ultimately, the success of each firm, however, is in the hands of the individual entrepreneur.

It is SBA's intention to establish, possibly in coordination with other Federal agencies, a "graduate" program to further assist concerns after the conclusion of their Fixed Program Participation Terms. Though this would not involve direct contract assistance from SBA, it could involve aggressive "outreach" efforts by SBA and other agencies to assist concerns in bidding upon and obtaining other Federal and private industry contracts.

It is important to recognize that participation in the 8(a) program is a voluntary act on the part of the firm. If a firm is allowed to participate in the program, for example, for five years, it may choose to enter the program between its second and seventh year of existence, its fourth and ninth year of existence, or its seventh and eleventh year of existence. The decision as to when to avail itself of contractual and other benefits available through the 8(a) program is a business decision. This decision is identical to other business decisions regarding marketing, new product development, purchase and acquisition of capital equipment, and the hiring and firing of employees.

Recognizing that the program is a voluntary program places the decision of when Federal assistance is appropriate

in the individual who is ultimately responsible, that is, the entrepreneur.

A second issue raised by eighty-five (85) comments and testimony at the public hearings objected that the proposed rule does not allow for "negotiation" of the Fixed Program Participation Term, and that it does not adopt the criteria for negotiation set forth in the Conference Report, H.R. Report No. 96-1434, 96th Cong., 2d Sess. (1980). Regarding the first part of this objection, the proposed rule, § 124.1-1(f)(2), clearly states that the Fixed Program Participation Term "shall be negotiated." SBA will implement procedures to effect these negotiations.

Regarding the second part of this objection, the statutory language provides no guidance as to the factors to consider in establishing the "fixed period of time as mutually agreed upon." The factors used in the regulation implement the basic legislative purpose to maximize limited 8(a) program resources for the benefit of the optimum number of disadvantaged firms by carefully monitoring contract support and sharing program participation among disadvantaged concerns. The Conference Report at page 16 provides some guidance on desirable factors to be considered. "[T]he implementing regulations should take into account the following factors among others: the amount of SBA assistance needed to correct the impairment of 8(a) concerns, the individual characteristics of the 8(a) concern, the locale in which the firm conducts its business, the nature of the industry and the availability of private sector capital and procurement to assist the firm in achieving maturity in the American economic system."

These factors are recognized throughout the proposed rule, for example, § 124.1-1(f)(5)(i), incorporates the current regulatory definition of "economic disadvantage" as a criteria in formulating Fixed Program Participation Terms. This definition includes factors noted in the Committee Report.

A third issue addressed by thirty-nine (39) comments to the proposed rule and others at the public hearings centered around SBA's inability to provide the 8(a) contract support approved in the business plan and the length of time after entry into the 8(a) program before the award of the first 8(a) contract. SBA recognizes this problem in meeting every approved 8(a) business support level and understands the concern of current 8(a) program participants with the time it takes in many instances to receive the first 8(a) subcontract.

Although these comments were primarily in the form of objections to the proposed rule, it is for these very

reasons—i.e., the inability to provide adequate and timely contract support to the optimum number of disadvantaged concerns because of the current concentration of such support with favored concerns—that SBA thinks that these regulations which maximize program benefits for a greater number of concerns are desirable.

SBA has added another liberalizing provision in the final regulation concerning the time at which the Fixed Program Participation Term shall begin. For concerns admitted into the program after the effective date of these final rules, and concerns currently in the program which have not received an 8(a) subcontract, the participation term shall begin with the award of the first 8(a) subcontract. For all other concerns currently in the program, the participation term shall begin on the date it is awarded following the required negotiation between the concern and SBA. The purpose of this provision is to balance the interests of participants in program benefits between concerns which have not yet received contract support with those concerns which have received such support.

For all concerns currently in the program, it is SBA's intention to establish a Fixed Program Participation Term of at least one year (as the regulations expressly state, however, neither such a one year term nor any other term would preclude prior cessation of program eligibility pursuant to Program Completion or Program Termination proceedings). Moreover, in order to clarify any possible misconceptions on the part of concerns currently in the program, it is noted that any Fixed Program Participation Terms granted pursuant to these regulations is prospective only and does not relate to prior program eligibility. In other words, in negotiating a Fixed Program Participation Term with concerns currently in the 8(a) program, SBA will not require any fixed term that would involve a precipitate, less than one-year, end of program eligibility; rather, SBA will attempt to establish a fixed term that will phase out program eligibility for appropriate concerns with a view not only to the overall program considerations noted herein but also to the business exigencies of the individual concern.

A fourth issue raised in fourteen (14) comments requested clarification of the proposed rule in § 124.1-1(f)(4)(i) which provides that not less than one year prior to the expiration of a firm's Fixed Program Participation Term, it may request SBA to review and extend its term for a period not to exceed the difference between the term originally

negotiated in the business plan and the maximum term authorized in the final rule, plus one year. As already noted, this additional one year maximum extension has been increased to two years. Besides objections that the original proposed one year extension maximum was too short, the comments received disclosed some confusion concerning the mechanics of this provision. An illustration may be helpful. A firm subject to a five year maximum, has an original negotiated term of three years. Prior to the end of its second year it may request SBA to review the firm's present economic condition and progress and request SBA to extend the original three year term for an additional one year, two years, three years or four years—that is the difference between the permissible maximum (5 years) and the original term (3 years) plus two years (a maximum extension of 4 years). SBA may grant the request, approve an additional term less than requested or deny the request. There may be only one extension of the firm's original negotiated term.

The fifth and last issue raised by the comments and the public hearings is the objection that the regulation (§ 124.1-1(f)(9)) allows the termination of a participant from the §(a) program at the conclusion of the fixed participation period or any extension thereof, without a hearing pursuant to section §(a)(9) of the Small Business Act, as amended. It is argued that such action violates the participant's right to due process, and was not authorized by Congress.

Congress, in enacting Pub. L. 95-507, amended section §(a) of the Small Business Act by adding section §(a)(9) which in part reads: "[T]hat no such firm shall be denied total participation in any program conducted under the authority of this subsection without first being afforded a hearing on the record in accordance with chapter 5 of title 5, United States Code." However, Pub. L. 96-481 in amending section 7(j)(10)(A)(i) of the Small Business Act, eliminated the requirements of section §(a)(9) in certain instances by providing: "[T]hat no determination made under this paragraph [i.e., regarding a Fixed Program Participation Term] shall be considered a denial of total participation for the purposes of section §(a)(9) of this Act." The same statement was made applicable to firms currently in the program on the effective date of Pub. L. 96-481.

In SBA's view, the express statutory language as well as the legislative history of Pub. L. 96-481 confirms that, when a firm concludes its fixed program participation term or any extension

thereof, the firm will cease to be a program participant without any right to a hearing on the record as provided by section §(a)(9) of the Small Business Act (15 U.S.C. 637(a)(9)).

The Senate Report on H.R. 5612, the bill which became Pub. L. 96-481, explicitly states at page 24 that "[T]he Committee has agreed to exclude the full adjudicatory hearings required under section §(a)(9) so as to leave the full flexibility the Committee believes SBA needs in fixing the graduation date."

The Conference Report, H.R. Rep. No. 96-1434, 96th Cong., 2d Sess. (1980) adopted the Senate version, and in so doing states:

[U]nder the conference substitute neither the establishment of a graduation date, SBA's extension of such a date, or a firm's completion of the participation period, shall be considered a denial of total participation requiring an administrative hearing under section §(a)(9) of the Small Business Act.

A paragraph by paragraph analysis of the final rule follows:

1. Section 124.1-1(f)(1) makes clear that the newly authorized Fixed Program Participation Term is a limited period for program participation in addition to and not as a substitution for periods of program participation limited by Completion actions pursuant to subsection (d) of the regulations or Termination actions pursuant to subsection (e) of the regulations. This provision also specifies that this newly authorized Fixed Program Participation Term is a requirement for program eligibility.

2. Sections 124.1-1(f)(2) and (f)(3) specify that the Fixed Program Participation Term shall be negotiated between SBA and the participant concern and shall be set forth in the concern's business plan. This provision also establishes time limitations for concerns currently in the program to submit a Fixed Program Participation Term for negotiation with SBA. A paragraph added to § 124.1-1(f)(3), as originally published as proposed rule making in the June 1, 1981, *Federal Register*, would permit concerns newly admitted to the program and concerns currently in the program, but which have not yet received any section §(a) contracts, to measure their Fixed Program Participation Terms from the award date of their first section §(a) subcontract. Also, a minor clarifying change is made in the final rule in paragraph (b)(3)(i) to emphasize the requirement that a fixed program participation term must be established for all §(a) concerns in any event by April 21, 1982.

3. Section 124.1-1(f)(4) establishes the maximum periods of time for Fixed Program Participation Terms and provides for a one-time extension of such term. The extension provision is the implementation of the statutory requirement for an extension period. The proposed maximum period of time for fixed program terms in the June 1, 1981, Notice of Proposed Rulemaking of three years for "service" firms and five years for all other firms has been liberalized in this final rule to five years for all firms. In addition, the proposed maximum of one year for extensions of the original terms has been increased to two years. This provision also provides a preliminary Fixed Program Participation Term for concerns currently in the program pending negotiation of a regular Fixed Program Participation Term. The language of this preliminary Fixed Program Participation Term provision has been changed to clarify that such a preliminary Term may not extend beyond April 21, 1982.

4. Section 124.1-1(f)(5) sets forth the criteria and policies which SBA will apply in negotiating Fixed Program Participation Terms for new program applicants and for concerns currently in the program applying for the necessary revision of their business plans.

5. Section 124.1-1(f)(6) provides that no section §(a) contracts may be awarded to a concern unless it has a Fixed Program Participation Term approved by SBA.

6. Section 124.1-1(f)(7) makes clear that the cessation of program eligibility at the conclusion of a Fixed Program Participation Term shall, in essence, be automatic, requiring no additional action by SBA and giving rise to no additional rights for the concerns. It is also emphasized that the cessation of program eligibility at the conclusion of a Fixed Program Participation Term is not subject to the Administrative Procedures Act hearing requirements of section §(a)(9) of the Small Business Act.

7. In establishing Fixed Program Participation Terms, these final regulations differentiate between concerns initially applying for program eligibility and concerns currently in the program, applying for a revision of their business plans to incorporate the required fixed terms.

Compliance With the Regulatory Flexibility Act and Executive Order 12291

SBA did not prepare an initial regulatory flexibility analysis to accompany these regulations when they were published in proposed form. (See 46 FR 29206.) As indicated above, SBA has received extensive comments in

response to those proposed regulations and has decided in view of those comments that, since the proposed regulations promulgated in final form will have a significant economic impact on a substantial number of small entities, a final regulatory flexibility analysis of those rules is appropriate.

Therefore, for the purpose of section 604 of the Regulatory Flexibility Act, 5 U.S.C. 604, it is hereby certified that the foregoing Supplementary Material provides:

(1) A succinct statement of the need for, and the objective of these final rules;

(2) A summary of the issues raised in the public comments submitted in response to SBA's publication of proposed rules on this matter, a summary of the SBA's assessment of those issues, and a statement of any changes made in the proposed rule made as a result of such comments; and

(3) A description of the significant alternatives to the final rules consistent with the stated objectives of applicable statutes and designed to minimize the economic impact of the rules on small entities, and a statement of the reasons why each of the alternatives was rejected.

In addition, it is hereby certified that these rules have been found not to constitute major rules within the meaning given to that term by Executive Order 12291.

All backup materials used in the preparation of these final regulations as well as the complete record of this rulemaking proceeding is available for inspection at the U.S. Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, Room 706. Members of the public may obtain copies of this final regulatory flexibility analysis from Charlie L. Dean.

PART 124—MINORITY SMALL BUSINESS AND CAPITAL DEVELOPMENT ASSISTANCE

Therefore, pursuant to the authority of section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), the Small Business Administration amend Part 124 of its Regulations (13 CFR Part 124) by adding a new § 124.1-1(f) to read as follows:

(See pages 4, 4a, and 5 for amendment)

Dated: November 18, 1981.

Michael Cardenas,
Administrator.

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BILLING CODE 8005-01-M

(3) Availability of outside equity capital; and

(4) Available markets.

(5) *Potential for Success.* In order to be eligible to participate in the section 8(a) program, an applicant concern must be a concern:

(i) Which with contract, financial, technical and management support will be able to successfully perform subcontracts awarded under the section 8(a) program, and with such assistance shall have reasonable prospects for success in competing in the private sector.

(ii) In addition to meeting the criteria set forth in § 124.1-1(c)(5)(1) above, the AAMSB-COD must determine that the procurement, financial, technical and management support necessary to enable the applicant concern to successfully complete the section 8(a) program shall be available to such concern from SBA or other identified and acceptable sources.

(d) *Program Completion.* (1) When a section 8(a) business concern has substantially achieved the objectives of the section 8(a) program, including but not limited to, the achievement of the goals set forth in its business plan as approved and modified, and the attainment of demonstrated ability to compete in the market place without assistance under the section 8(a) program, its participation within the program shall be determined by SBA to be completed.

(2) In determining whether a concern has substantially achieved the goals of its business plan and has attained the ability to compete in the market place without section 8(a) program assistance, the following factors, among others, shall be considered by SBA. The factors cited below shall be considered and applied by SBA with due regard to the remedial purposes of Pub. L. 95-507.

(i) Positive overall financial trends, including but not limited to:

(A) Profitability

(B) Sales, including improved ratio of non-section 8(a) sales

(C) Net worth, financial ratios, working capital, capitalization, access to credit and capital

(D) Ability to obtain bonding

(E) A positive comparison of the section 8(a) business concern's business and financial profile with profiles of non-section 8(a) small businesses in the same area or similar business category

(F) Good management capacity and capability.

(3) Upon determination by SBA that a section 8(a) business concern's participation within the section 8(a) program has been completed pursuant to

paragraph 124.1-1(d)(1) above, the section 8(a) business concern shall be afforded an opportunity for a hearing on the record in accordance with chapter 5 of Title 5 of the United States Code, at which hearing it may contest such determination. Such a hearing will be held pursuant to the SBA's Rules of Practice for Adjudicative Proceedings set forth at Part 124.10, et seq., of SBA Rules and Regulations.

(4) Subsequent to the completion of such hearing, based upon the record established therein, and after consideration of the initial decision of the Administrative Law Judge who has conducted the hearing, the AAMSB-COD shall render a final decision regarding the completion of the section 8(a) business concern's participation in the program. Prior to a final decision, the subject section 8(a) business concern may have full rights of participation in the section 8(a) program.

(e) *Program Termination.* (1) Participation of a section 8(a) business concern in the section 8(a) program may be terminated by the SBA prior to the completion of the concern's business plan for good cause. Examples of good cause include, but are not limited to, the following:

(i) Failure of a section 8(a) business concern to continue to meet the standards of eligibility set forth in these regulations.

(ii) Failure of a section 8(a) business concern to maintain ownership and control by the person(s) who has (have) been determined to be socially and economically disadvantaged pursuant to these regulations.

(iii) Inadequate management performance by a section 8(a) business concern.

(iv) Repeated inadequate performance of awarded section 8(a) procurement subcontracts by a section 8(a) business concern.

(v) A section 8(a) business concern has ceased its business operations.

(vi) Failure of a section 8(a) business concern to submit an updated business plan within a reasonable time after its due date, without approval by SBA.

(vii) Withholding notice from, or failure to obtain SBA approval prior to changes in ownership and management control by a section 8(a) business concern.

(viii) Unauthorized use of business development expense funds and/or advance payment funds by a section 8(a) business concern. Violation by a section 8(a) business concern of a substantial requirement or provision of an advance payment agreement.

(ix) Violation by a section 8(a) business concern of any of SBA's Rules and Regulations.

(x) Failure of a section 8(a) business concern to comply with the reporting provisions required in an SBA approved management agreement. Compensating those providing management assistance in excess of that specified in an SBA approved management agreement. Having a management agreement, either written or oral, that has not been approved by SBA. Willful violation of any of the other requirements of a management agreement approved by SBA.

(xi) Non-compliance by a section 8(a) business concern with substantial requirements of any divestiture or management agreement as approved by SBA.

(xii) Failure or refusal by a section 8(a) business concern to provide SBA with required quarterly and annual financial statements, reports, and other requested data within a reasonable time after the close of the reporting period.

(xiii) Failure by a section 8(a) business concern to achieve goals cited in its business plan, as modified, as a result of repeated refusal to accept or utilize SBA assistance.

(xiv) Failure by a section 8(a) business concern to reasonably pursue competitive and commercial business in accordance with its business plan, or failure to otherwise make reasonable efforts to achieve competitive status.

(xv) Inability of a section 8(a) business concern to make satisfactory progress in achieving its business development objectives within a reasonable time after receiving SBA management and technical assistance, financial and technical assistance.

(xvi) Failure by a section 8(a) business concern to request and obtain prior approval from SBA before subcontracting under a section 8(a) subcontract.

(xvii) Failure by a section 8(a) business concern to disclose to SBA the extent to which nondisadvantaged persons or firms will participate in the management of the section 8(a) business concern.

(xviii) Failure by a section 8(a) business concern to disclose to SBA fees paid or to be paid, costs incurred or committed to third parties, directly or indirectly, in the process of obtaining section 8(a) contracts or subcontracts.

(xix) Willful failure by a section 8(a) business concern to comply with applicable labor standards obligations.

(xx) Knowing submission of false information to SBA on behalf of a

section 8(a) business concern by its principals, officers, agents or employees.

(xxi) Debarment by the Comptroller General, the Secretary of Labor or Director of the Office of Federal Contract Compliance of a section 8(a) business concern.

(xxii) Debarment or suspension of a section 8(a) business concern for cause by any contracting agency pursuant to FPR subpart 1-1.6 "Debarred, Suspended and Ineligible Bidders" or DAR (ASPR) section I, Part 6, "Debarment, Ineligibility and Suspension."

(xxiii) Conviction of a section 8(a) business concern or a principal of a section 8(a) business concern for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or in the performance of such contract or subcontract.

(xxiv) Conviction of a section 8(a) business concern or a principal of a section 8(a) business concern under the Organized Crime Control Act of 1970; or conviction of such a principal of a section 8(a) business concern of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the question of present responsibility as a Government contractor.

(xxv) Conviction of a section 8(a) business concern or a principal of a section 8(a) business concern under the Federal Antitrust Statutes arising out of the submission of bids or proposals.

(xxvi) Violation by a section 8(a) business concern of a section 8(a) subcontract provision against contingent fees and gratuities.

(2) Upon determination by the SBA that a section 8(a) business concern's participation in the section 8(a) program should be terminated for good cause, the section 8(a) business concern shall be afforded an opportunity for a hearing on the record in accordance with chapter 5 of Title 5 of the United States Code, at which hearing it may contest such determination. Such a hearing will be held pursuant to the SBA's Rules of Practice for Adjudicative Proceedings set forth at Part 124.10 et seq. of the SBA Rules and Regulations.

(3) Subsequent to the completion of such hearing, upon the record established therein, and after consideration of the initial decision of the Administrative Law Judge who has conducted the hearing, the AAMSB-COD shall render a final decision

regarding the termination, for good cause, of the 8(a) business concern's participation in the program.

(4) After the effective date of a program termination as provided for herein, a section 8(a) business concern is no longer eligible to receive any section 8(a) program assistance. Such concern is obligated to complete previously awarded section 8(a) contracts.

(f) *Fixed Program Participation Term*
(1) In addition to Program Completion and Program Termination, set forth in subsections (d) and (e) of this section, every program participant shall be subject to a Fixed Program Participation Term. A Fixed Program Participation Term will establish the ultimate time period during which a concern may remain in the program and the conditions thereof, regardless of whether competitiveness is reached or Program Completion action is effected. Except as noted in this section, a concern may not be accepted or continue in the program without a Fixed Program Participation Term.

(2) This Fixed Program Participation Term shall be negotiated between SBA and each small concern which is a participant or has applied for participation in the program.

(3) The provisions of the Fixed Program Participation Term, including the time limitation therefore, shall be set forth in the SBA approved business plan of the program participant.

(i) A concern currently in the program shall submit to SBA a proposed revision of its business plan, incorporating a Fixed Program Participation Term, within two months from the effective date of this § 124.1-1(f). This Fixed Program Participation Term must be established no later than April 21, 1982.

(ii) In negotiating this revised business plan, SBA will determine whether the concern currently in the program should be terminated pursuant to paragraph (e) of this section, completed pursuant to paragraph (d) of this section, or extended subject to a Fixed Program Participation Term. A determination at this time, however, to extend a concern subject to a Fixed Program Participation Term shall not preclude SBA from initiating Program Completion action or Program Termination action at any time prior to the completion of the Fixed Program Participation Term.

(iii) For concerns applying for entry into the program and for concerns currently in the program but which have not received any contract support, the Fixed Program Participation Term shall begin on the date of award of the concern's first section 8(a) subcontract. For all other participant concerns, the Fixed Program Participation Term shall begin on the date it is approved by SBA as part of the concerns business plan.

(4) The maximum Fixed Program Participation Term for all concerns shall be five years. These maximum terms shall apply both to concerns applying for entry into the program and to concerns currently in the program, applying for a revision of their business plan to incorporate a Fixed Program Participation Term as required by these regulations.

(i) Not less than one year prior to the expiration of the Fixed Program Participation Term, a concern may request SBA to review and extend its Fixed Program Participation Term for a period not to exceed the difference between the Fixed Program Participation Term established in the business plan and the maximum Fixed Program Participation Term authorized herein, plus two years. There may be no further extensions.

(ii) For concerns currently in the program applying for a revision of their business plan to incorporate a Fixed Program Participation Term, SBA may, at its option, accept these revisions upon receipt for the purpose of a preliminary Fixed Program Participation Term for a period not extending beyond April 21, 1982, pending negotiation of a regular Fixed Program Participation Term as set forth herein.

(5) The criteria that SBA will use in negotiating a Fixed Program Participation Term or an extension thereof with current program participants and applicant program participants are as follows:

(i) The factors referenced in § 124.1-1(c)(4) of this regulation for determining economic disadvantage.

(ii)(A) The number and dollar amount, and the progressively decreasing importance, of section 8(a) contract support that it is anticipated will be necessary to achieve competitiveness. In order to maximize limited program resources, SBA will emphasize business plans anticipating lesser amounts of section 8(a) contract support to reach competitiveness.

(B) In negotiating a Fixed Program Participation Term for concerns currently in the program, SBA will consider the section 8(a) contract support previously received by the concern. An SBA determination that such previous contract support has failed to appreciably contribute toward a timely achievement of competitiveness will be a significant factor toward limiting the Fixed Program Participation Term and the conditions thereof.

(iii)(A) The number and dollar amount and the progressively increasing importance of contract support, other than section 8(a) contract support, that it is anticipated will be necessary to achieve competitiveness. SBA will emphasize business plans having greater reliance on this non-section 8(a) contract support to reach competitiveness.

(B) In negotiating a Fixed Program Participation Term for concerns currently participating in the program, SBA will consider the non-section 8(a) contract support previously received by the firm. An SBA determination that the concern has failed to progressively increase the importance of such non-section 8(a) contract support during its previous participation in the program will be a significant factor toward limiting the Fixed Program Participation Term and the conditions thereof.

(iv)(A) The length of time that it is anticipated will be necessary to achieve competitiveness. In order to maximize limited program resources, SBA will emphasize program participation for those concerns closer to competitiveness.

(B) In negotiating a Fixed Program Participation Term for concerns currently in the program, SBA will consider the length of time during which the concern has previously participated in the program. The degree to which this past participation in the program has exceeded the maximum Fixed Program Participation Terms set forth in paragraph (f)(4) herein, will be a factor toward limiting the Fixed Program Participation Term and the conditions thereof.

(v)(A) The degree to which it is anticipated that Advance Payments and Business Development Expense will be necessary to enable the concern to successfully complete section 8(a) contracts and the extent to which reliance upon such proceeds will progressively decrease in importance. In order to maximize limited SBA resources and to increase exposure to regular competitive procedures, SBA will emphasize maximum use of conventional governmental and private resources in performing such contracts.

(B) In negotiating a Fixed Program Participation Term for concerns currently in the program, SBA will consider the previous Advance Payments and Business Development Expense received by the concern. An SBA determination that such Advance Payments and Business Development Expense support has failed to progressively decrease in importance during its previous participation in the program will be a factor toward limiting the Fixed Program Participation Term and the conditions thereof.

(vi)(A) The rate at which it is anticipated that a concern will decrease its reliance upon all forms of program support, especially section 8(a) contract support, in reaching competitiveness at the end of the Fixed Program Participation Term.

(B) In negotiating a Fixed Program Participation Term for concerns currently in the program, SBA will consider the previous rate at which the concern has decreased its reliance upon program support, and correspondingly increased its reliance upon conventional governmental and private contract business. An SBA determination that the

concern has failed to appreciably improve its rate of business reliance in this manner will be a factor toward limiting the Fixed Program Participation Term and the conditions thereof.

(6) No contracts pursuant to 8(a) of the Small Business Act shall be awarded to any concern unless it has received and is operating under an SBA approved Fixed Program Participation Term.

(7) Nothing in this subsection (f) shall be construed to limit SBA from initiating Termination actions, pursuant to subsection (e) above, or Completion actions, pursuant to subsection (d) above, during any Fixed Program Participation Term granted herein.

(8) Upon the conclusion of the Fixed Program Participation Term granted and/or extended herein, a concern will cease to be a program participant. This cessation of program participation shall occur without the necessity of any additional action by SBA; also it shall not give rise to any rights, claims or prerogatives on behalf of the concern. Cessation of program participation at the conclusion of the Fixed Program Participation Term shall not be subject to the hearings or other requirements of section 8(a)(9) of the Small Business Act (15 U.S.C. 637(a)(9)) or any implementing rules or regulations.

(Amdt. 13, 46 FR 57266, Nov. 23, 1981)

124.1-2 Advance payments.

(a) *General.* (1) Advance payments are disbursements of money made by SBA to a section 8(a) business concern prior to the completion of performance of a specific section 8(a) subcontract. Advance payments are made for the purpose of assisting the section 8(a) business concern in meeting financial requirements pertinent to the performance of the subcontract. Advance payments must be liquidated from proceeds derived from the performance of the specific section 8(a) subcontract. However, this does not preclude repayment of such advance payments from other revenues of the business, except from other advance payments and business development expenses (as defined hereinafter in these regulations). The proceeds derive from the performance of the specific section 8(a) subcontract must be deposited by the procuring agency in a special bank account established exclusively for the purpose of administering the advance payments. These proceeds will be used to liquidate the advance payments. No withdrawals of such subcontract proceeds from the special bank account may be made by the section 8(a) business concern before the full amount of the advance payments is liquidated.

(2) Advance payments shall not be made to a section 8(a) business concern in any case in which the section 8(a) business concern has assigned its rights to receive any payment under the specific section 8(a) subcontract to any person or entity, unless such assignment shall be made to SBA or to a Federal agency in regard to the receipt by the

section 8(a) business concern of a progress payment for any specific section 8(a) subcontract.

(3) In no event shall the total amount of advance payments for a section 8(a) business concern exceed 90 percent of the amount of the section 8(a) subcontract to which the above payments relate. The amount of advance payments made to a section 8(a) business concern shall not exceed the amount which is to be paid to the section 8(a) concern upon completion of performance of the specific section 8(a) subcontract by the procuring agency.

(4) The SBA shall not charge interest on advance payments disbursed pursuant to these regulations.

(b) *Requirements.* (1) Advance payments may be approved for a section 8(a) business concern when all of the following conditions are found by SBA to exist:

(i) A section 8(a) business concern does not have adequate working capital to perform a specific section 8(a) subcontract.

(ii) Either adequate and timely financing is not available on reasonable terms to provide necessary capital, or financing is available but the terms of such financing are not conducive to the effective and/or the business development purposes of the section 8(a) program.

(iii) The section 8(a) business concern has established or agrees to establish and maintain financial records and controls which will provide for complete accountability and required reporting of advance payment funds. These records must be made available upon request for review by SBA and the General Accounting Office.

(c) *Procedure.* To be eligible to receive Advance Payments, a section 8(a) business concern must meet the conditions set forth in § 124.1-2(b) above and must comply with the following procedure.

(1) A section 8(a) business concern desiring to receive an advance payment in connection with any section 8(a) subcontract shall:

(i) Submit a written request for advance payment to the appropriate SBA Regional Director or his designee. Such request must include detailed documentation supporting the need for such funds and evidence that working capital financing cannot be found upon terms acceptable pursuant to § 124.1-2(b)(ii) above from financing institutions.

(ii) The section 8(a) business concern must select a commercial bank which is a member of the Federal Reserve System in which it must establish a special bank account for the deposit of payments paid to it by the procuring agency pursuant to the performance of the subcontract(s). This special account shall be a demand deposit account.

(A) Disbursements from the account shall require the countersignature of such SBA employee as shall be designated by the appropriate SBA

Regional Director.

(B) Under no circumstances shall the requirement for an SBA employee countersignature be waived.

(C) At the time that SBA disburses advance payment funds into the special bank account, SBA shall obtain a lien upon the special bank account, any property contracted for, and supplies, material and other property acquired with the advance payment funds.

(2) Upon a review of all the circumstances and evidence, the appropriate SBA Regional Director shall have the obligation to decide whether to approve or deny a request for advance payment. This right of approval by the Regional Director shall not be delegated to any other person or entity. The section 8(a) business concern, the bank selected pursuant to § 124.1-2(c)(ii) above, and SBA shall execute an Advance Payment Agreement which shall set forth the terms and conditions governing advance payments.

(d) *Use of Advance Payment Funds.* (1) Except for repayment to SBA in appropriate circumstances, advance payment funds may be withdrawn from the special bank account by a section 8(a) business concern exclusively for the purpose of purchasing materials and labor and paying for administrative and overhead expenses required to perform the specific section 8(a) subcontract.

(2) Under no circumstances may advance payment funds be deposited in interest-bearing accounts.

(3) Advance payment funds shall be dispersed by SBA for deposit into the special account only in such amounts necessary to pay for the immediate needs of a section 8(a) subcontract. Such disbursements shall be made as expeditiously as possible. Such immediate needs shall be documented by the small business concern and verified by SBA prior to disbursement.

(4) All payments to the section 8(a) business concern for work performed or services rendered pursuant to the subject section 8(a) subcontract shall be paid into the special bank account by the procuring agency, and shall be applied by SBA against the balance of advance payments until the total amount of advance payments made by SBA to the section 8(a) business concern is liquidated.

(e) *Cancellation.* (1) SBA may determine that advance payments should be cancelled under the following circumstances:

(i) The terms and conditions of the advance payment agreement have not been adhered to by a section 8(a) small business concern.

(ii) The section 8(a) business concern's participation in the section 8(a) program is completed or has been terminated.

(2) In the event of cancellation of advance payments to a section 8(a) business concern, all previous advance payments made to that section 8(a) business concern shall become immediately due and payable to SBA.

§ 124.1-3 Letter of credit.

(a) *General Policy.* The letter of credit method of payment will be utilized under certain circumstances to disburse advance payments to section 8(a) business concerns performing subcontracts under the section 8(a) program when SBA has made a decision approving the use of advance payments pursuant to the requirements and conditions provided for in these regulations.

(b) *Eligibility Requirements.* SBA may disburse advance payments through the letter of credit method of payment through the Federal Reserve Bank System to a section 8(a) business concern when all of the following conditions are found by SBA to exist:

(1) SBA determines that the section 8(a) business concern may be awarded more than one section 8(a) subcontract during a period of at least one year.

(2) The aggregate amount of letter of credit advance payment funds made to one section 8(a) business concern will exceed \$120,000 annually.

(3) The section 8(a) business concern has submitted a schedule of its projected monthly advance requirements for section 8(a) subcontract disbursements. SBA has reviewed it, and SBA has found it to be reasonable.

(4) The section 8(a) business concern has established or agrees to establish and maintain financial records and controls which will provide for complete accountability and required reporting of program funds. These records must be made available upon request for review and audit by SBA and the General Accounting Office.

(c) *Procedures.* The procedures for the utilization of the letter of credit method of payment shall be in accord with 41 CFR 1-30.408-1.

§ 124.1-4 Business development expense.

(a) *Purpose.* Business Development Expense (BDE) funds are funds made available by SBA for the purpose of assisting a section 8(a) business concern in connection with the performance of a specific section 8(a) subcontract.

In the discretion of SBA, BDE funds may be used for the following purposes:

(1) To make up the difference between the current fair market subcontract price and the reasonable price required by the section 8(a) contractor to provide the

product or service in connection with a specific section 8(a) subcontract.

(2) For the purchase of capital equipment which has been determined by SBA to be essential to the section 8(a) business concern's performance of a specific section 8(a) subcontract and for which acquisition cannot be made by other financing means without adversely affecting the concern's financial condition.

(b) BDE may be used to defray other costs of a section 8(a) business concern for the performance of a specific section 8(a) subcontract, including but not limited to:

(1) Facility and production engineering.

(2) Development, testing, and implementation of quality control procedures.

(3) Training costs to counteract low labor productivity due to the inexperience of the business concern or its labor force.

(4) Differential due to low order purchasing power and/or material usage in comparison to its competitors.

§ 124.1-5 Waiver of bonds required by any Government procurement officer.

(a) *Policy.* It is the policy of SBA to consider waiver of any bid, payment and performance bonds required by any Government Procurement Officer, whether pursuant to the Miller Act or otherwise, for and in connection with any 8(a) contract whenever it is determined by SBA that such bonding requirement is inappropriate for the 8(a) contractor in the performance of the 8(a) contract. It is the intent of Congress that this authority be sparingly used as a business development tool, and only then with the expressed concurrence of the Administrator. The exercise of this authority by the Administrator is subject to the four conditions set forth in Section 8(a)(2) of the Small Business Act, as amended by Section 202(a) of Pub. L. 95-507.

(b) *Eligibility.* (1) The applicant must be a certified 8(a) contractor and must have been engaged in activities which required it to provide payment and/or performance bonds for a period of no more than two years and participating in the Section 8(a) Program for not more than one year.

(2) SBA must determine that the firm has the potential of becoming bondable if assisted for a limited period of time by the bond waiver.

(c) *Conditions for SBA Waiver of Bond.* (1) SBA must find that the concern is an eligible concern for which the bonds required by the Miller Act or by the procurement officer are inappropriate for the performance of a

FY 83 PROCUREMENT AGENCY SMALL BUSINESS GOALS AS NEGOTIATED BY SMALL BUSINESS ADMINISTRATION
(Dollars in Millions)

Agency	Total Estimated Procurement (\$10,000 +)	Percentage Goal for Small Business (\$10,000 + to Total)	Dollar Goal For Small Business (\$10,000 +)	Dollar Goal For Small Business (\$10,000 + to Total)	Est. Total Subcontract Reporting Prime Contr.	Dollar Goal For Small Business Subcontract Awards	Percentage Goal for Small Business To Total Subcontract
Agency							
Dept. of Defense	10,400.0	17.0%	1,768.0	1,768.0	2,400.0	217,300.0	39.0%
NASA	5,471.0	7.0	383.0	383.0	1,400.0	4,700.0	15.0
Dept. of Energy	2,293.0	33.5	769.0	769.0	1,542.0	208.7	38.5
GAO	2,293.0	48.7	1,115.0	1,115.0	1,400.0	405.3	28.9
GAO (FSS Only)**	2,049.2	48.7	998.0	998.0	1,400.0	405.3	28.9
Dept. of Agriculture	1,620.8	60.0	972.5	972.5	328.7	100.8	30.7
Dept. of Interior	1,293.0	44.3	573.0	573.0	140.3	65.0	46.3
Dept. of Justice	1,293.0	21.1	273.0	273.0	186.2	69.7	41.9
Dept. of HHS	1,096.8	51.9	569.0	569.0	32.2	6.5	32.9
Tenn. Valley Authority	614.0	20.6	126.0	126.0	80.0	40.0	50.0
Dept. of Labor	386.0	43.1	166.0	166.0	59.0	23.0	39.0
Dept. of Education	289.0	25.0	72.3	72.3	1.7	8.7	26.1
Dept. of Commerce	233.5	37.8	88.0	88.0	5.5	.09	18.1
Agcy for Int'l Dev.	213.5	79.0	169.0	169.0	2.0	1.3	65.0
Dept. of Justice	213.5	79.0	169.0	169.0	2.0	1.3	65.0
Dept. of Education	187.0	51.3	96.0	96.0	1.6	1.4	95.0
Nat'l Science Foundation	146.5	51.3	75.0	75.0	6.8	6.5	95.9
Dept. of Treasury	141.9	42.0	59.6	59.6	2.6	8.3	86.1
Dept. of State	138.0	33.7	46.5	46.5	.0	.0	.0
Nuclear Reg. Agcy	42.0	46.3	19.5	19.5	.0	.0	.0
U.S. Information Agcy	25.0	46.3	11.6	11.6	.0	.0	.0
U.S. Environmental Agcy	15.9	46.3	7.3	7.3	.0	.0	.0
Off. of Personnel Mgmt.	15.9	46.3	7.3	7.3	.0	.0	.0
All Others***	59.2	43.7	25.8	25.8	2.01	2.01	65.6
TOTALS	\$10,187.3	17.8%	\$1,793.7	\$1,793.7	\$51,395.0	\$30,378.1	38.3%

*These goals have not been established.

**Percentage goals for Federal Supply Schedule (FSS) contracts includes all orders valued under \$10,000.

***Includes all Federal agencies with individual total estimated procurement budgets of less than \$10 million.

FEB 28 1983

Honorable Don Nickles
United States Senate
Washington, D. C. 20510

Dear Senator Nickles:

Thank you for your inquiry of January 5, 1983, concerning the interest in the 3(a) program expressed by the Cherokee Nation Industries, Inc. (CHII) of Stilwell, Oklahoma, in its letter to you dated December 13, 1982.

Mr. Cary C. Wyatt, President/General Manager of CHII, indicated his concern that tribal as opposed to individual ownership of CHII might bar the firm from eligibility. That fact alone will not prevent the firm from participating in 3(a). On that score, the tribe must simply establish that it is economically disadvantaged and that the individual tribal members responsible for the daily management and control of the firm are socially and economically disadvantaged.

These criteria are discussed in the enclosed copy of an opinion of our Office of General Counsel dated October 3, 1982. This opinion is the basis on which we are considering this aspect of the eligibility of tribally-owned firms applying for the 3(a) program.

I suggest that Mr. Wyatt consider the language of the opinion, and, if he believes that CHII qualifies, he should proceed with the 3(a) certification process. If we agree with him, and if all other eligibility criteria are met and there appears to be sufficient contract support to help CHII meet its business plan objectives, the firm should find no difficulty in becoming an 3(a) participant.

Your interest in this matter is greatly appreciated.

Yours truly,

/s/ James C. Sanders

James C. Sanders
Administrator

Enclosure
MS3/COD Baird/Atterbury
113948 0040C

cc: ES-317
CLA-1024
ES-1307
OCC
OKLAHOMA D/C*
RO VI*

BENNETT _____
DA _____
ES _____
CLA _____
OCC _____
WRIGHT _____
CLARK _____
SALDIVAR _____
CONRAD _____

*with copy of enclosure and incoming to each

Senator NUNN. Mr. Chairman, if you will permit me, I have an opening statement here which I did not take time to read, and I would appreciate having that included in the record at this point. The CHAIRMAN. Without objection, it is so ordered. [The prepared statement of Senator Nunn follows:]

OPENING STATEMENT OF SENATOR NUNN
OVERSIGHT HEARING ON FEDERAL MINORITY
BUSINESS DEVELOPMENT PROGRAMS
U.S. SENATE SMALL BUSINESS COMMITTEE
MARCH 25, 1983

Mr. Chairman, I am pleased to participate in this important Senate Small Business Committee hearing on the Federal Government's efforts to assist in the growth and development of minority business. I want to compliment the chairman for scheduling these hearings, and for his continued leadership in this important area.

Beginning as early as 1978, with the work that this Committee did leading up to the passage of Public Law 95-507, our primary goal has been to develop and encourage a comprehensive, coordinated, and most importantly, a workable system for providing Federal assistance to minority business. That law had two major components. First, we enacted a clear, specific and targetted program for minority business development under the 8(a) program. Second, we recognized the critical need to increase the opportunities for both small and minority business to participate as subcontractors to federal prime contractors, and instituted a mechanism for encouraging that result.

With respect to the 8(a) program in particular, we sought a means to assist socially and economically disadvantaged individuals to become competitive in the market place. In 1978, Congress consciously and deliberately shifted the focus of the 8(a) program from a contracting to a business development program. We made it clear in that law that SBA was to provide a combination of contract and management assistance to each firm in the program based on need. If SBA could not provide that assistance, SBA was not to admit a firm into the 8(a) program.

With the further legislative guidance to SBA on the establishment of a systematic way of assessing a firm's continued participation in the 8(a) program towards the goal of achieving "competitiveness", I believe Congress has put into place all of the tools for the Executive Branch necessary to achieve our aim of assisting in the growth of minority business.

That is not to say that this program has been free of problems or controversy. We know that it has not. But it is a program that does work, and it continues to have my full support.

Approximately 480 firms now in the 8(a) portfolio will reach their graduation date, as mutually agreed to between SBA and the firm, within the next year. While many of these firms will exercise their right to request an extension of their graduation, it will

result only in a postponement of the day when they will have reached the end of their fixed program participation term.

Mr. Chairman, last June, at my request, our Committee held a hearing in this same room on the positive contributions that minority businesses make to this Nation's economy. The President's report on The State of Small Business, released last week, reinforces the conclusion we reached at that hearing regarding the role of minority business in our society. It proves that, with an equal opportunity to compete in the free enterprise system, these firms can, and will be successful.

So I look forward to the testimony of the Secretary of Commerce, and the SBA Administrator, about the leadership role they will take within the Executive Branch to provide for a timely replenishment of firms into the 8(a) program, to provide for a commitment of Federal resources to the enhancement of the 8(a) program, and to provide a continuing helping hand, where necessary, to those firms who are completing the 8(a) program. And I look forward to the testimony of the three businessmen, and their recommendations on ways to improve the usefulness of these programs to them.

The CHAIRMAN. Is there anything further that either the Administrator or the Secretary care to present to the committee?

Mr. BALDRIGE. No, sir. I think the 5-year plan is an excellent idea, though. We should do more of that.

Mr. SANDERS. Following up what the Secretary is saying, we will submit that to you, Senator. We do have a management-by-objectives end result, MBOR, at the agency. It is sometimes hard to administer. But part of that, as you know, relates to the kinds of objectives you build into the performance objectives of each individual employee in the government, and that is where it really comes down.

If each person has the overall objective of results and advancement of these firms built into the minority business specialists, what we call the business development specialists, in each town, then I think we will begin to see some results. When he says, "Hey, you are no longer saying I just have to process contracts but I have got to make them make sense and develop firms?" we say, "That is right."

Senator NUNN. Well, I would agree with that. It just seems that we have got to develop an information base that tells us how many viable firms there are out there that have been through 8(a) who

truly are competing and competing successfully in the free enterprise system. We have to regularize that kind of information.

The CHAIRMAN. Gentlemen, thank you very much.

Mr. SANDERS. Thank you, Mr. Chairman and Senator Nunn.

Senator NUNN. I thank both of you.

The CHAIRMAN. We have two more witnesses. Mr. Ferrell, who was to testify, has notified the staff that he will not be here because there is a snowstorm in Atlanta. [Laughter.]

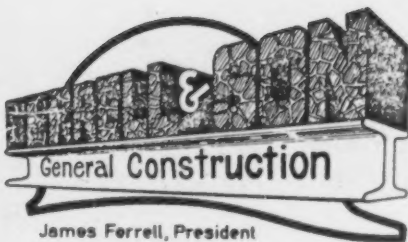
I realize that my colleague on the left does not like anyone to believe they have snowstorms in Atlanta. You do not usually see it in the 10-page color brochure, but there it is. [Laughter.]

Senator NUNN. Our friend Bob Wright, who is sitting in the front row with SBA, comes from the Columbus-Atlanta area, and he is supposed to be in charge of the weather for this administration. I don't know what happened.

Mr. WRIGHT. I flunked the course, Senator.

The CHAIRMAN. Without objection, we shall insert Mr. Ferrell's statement in the record at this point.

[The prepared statement of Mr. Ferrell follows:]



20 Newcastle St. SW Atlanta, Ga. 30314
 (404) 753-5203 / 349-8508 / 896-5329
 "A second generation business."

March 24, 1983

To The Senate Committee on Small Business:

Thank you members of this forum for allowing me the opportunity to speak relative to the impact of the SBA 8(A) Program and how it could enhance the financial opportunities of my minority small business. I am James C. Ferrell, President of Ferrell & Son General Construction Company in Atlanta, Georgia. Currently, we are being considered for entrance into the 8(A) Program after trying to attain certification for four years.

Our firm has been in business for 9 years under the present name and now employs approximately 30 persons, not all of which are full time. Our firm's book of business centers around new construction and renovation and all of our contracts are secured through competitive bidding against majority and other minority firms. Over 75% of our contract dollars have come through work contracted with the City of Atlanta. Our bonding capability range is up to \$800,000.00.

As noted from this profile, my firm apparently is not able to compete successfully for business in the private sector. There are three main reasons: 1) Socially, by being a minority small business firm, we are not in the mainstream of the construction trade. Hence, our awareness of business opportunities becomes very limited; 2) Most, if not all contracts today require bonding, and the bonding capabilities of minority businesses are limited. Many minority businesses are forced to survive on small sub-contracts with little or no overhead instead of being prime contractors because bonding is not available; 3) Of most

importance is the limited availability of financial resources from lending institutions to operate on a day-to-day basis. In this regard, most bid proposals from the private sector and many governmental contracts do not offer general and administrative cost in advance of physically starting a contract. As a consequence it is extremely difficult to carry the cost of procuring and implementing contracts, often up to two months prior to receiving funds for work performed. My firm has a professional estimating staff along with clerical assistance. These salaries constitute a financial drain on the assets of the company. For instance, over a period of six months we might estimate and bid on 10 to 15 major proposals and are only successful in securing 1 or 2. The overhead cost for this period of time, therefore, becomes very great and lending institutions are skeptical in offering lines of credit to support minority firms.

The SBA 8(A) Program would aid the development of my firm by providing sufficient income to meet the general and administrative cost as outlined above. If these basic costs are met, I would be free to devote more time and effort to negotiating and estimating projects in the private sector. This would allow me to build up my organization and add to my experience while allowing my firm to develop its financial assets and portfolio to a level sufficient to compete effectively in the private sector.

We have an excellent track record in job performance and our staff is very competent. Since many contracts offered under 8(A) certification are negotiated contracts, not only is the SBA assured of receiving bid quotations within their estimated range, but also the level of job performance remains high, for the minority contractor is assured of sufficient capital to perform at a high level of competence.

Thank you very much for your attention

The CHAIRMAN. Our next witness will be Mr. William Hales. Mr. Hales is the editor and publisher of the Inquirer Newspaper Group of Hartford, Conn.

I might add, Sam, I also notice that even though Bill is my constituent now—and, I might add, a very good friend—I notice that he was originally a native of your State. It is nice to have you with us, Bill.

Mr. HALES. Thank you.

Senator NUNN. We are delighted to have you.

The CHAIRMAN. Please proceed.

**STATEMENT OF WILLIAM R. HALES, EDITOR AND PUBLISHER,
THE INQUIRER NEWSPAPER GROUP**

Mr. HALES. Good morning, Mr. Chairman.

My name is William R. Hales, and I am the editor and publisher of the Inquirer Newspaper Group in Hartford, Conn. The Inquirer Newspaper Group, which has a circulation of over 100,000, is the largest minority owned and operated newspaper in New England.

I appreciate the opportunity to appear before this committee and to be able to present my views on this important subject of today's hearing.

My comments will be directed at the Small Business Administration's section 8(a) program, which is one of the principal topics of this hearing. Let me state that my business is not a prospective candidate for the 8(a) program. However, my views reflect the attitudes I have often heard expressed by my fellow minority businessmen throughout the States of Connecticut and Massachusetts.

I believe that the Small Business Administration's section 8(a) program is a viable program to assist minority businesses in becoming better established and competitive in a very inequitable business environment.

I also believe in the history of the program. There have been many businesses that have benefited by the kinds of assistance that the program has to offer. However, there are too many minority businesses that are knowledgeable of the section 8(a) program, who have lost hope of ever receiving an opportunity to participate in it, and many firms have no knowledge of the program whatsoever.

Changes in the program should be implemented to allow a greater number of businesses to have an opportunity to participate.

To make more opportunities available, there must be a strictly enforced timespan for graduation from the program, along with an effective and consistent monitoring. The time span should be 5 years—3 years for service industry firms—with a 1-year extension if there are special circumstances that exist and are beyond the control of the firm and/or the Small Business Administration.

Evaluation of the economic impact that a particular firm has on the minority community, along with the proportional growth of the firm, should be taken into consideration when granting an extension.

In my opinion, there should be a 25-percent increase in the SBA section 8(a) contract support, and I just understand there have been problems with a 10-percent increase. The entire program

should reach a much broader section of the minority business community, thereby giving other needy minority businesses the chance to benefit from this extremely vital and worthwhile program.

If minority business is to achieve success in the main stream of the economy, the program should offer an incentive instead of a subsidy.

Again, thank you for the opportunity to present my views to this committee. I look forward to answering any questions that you may have.

[The prepared statement of Mr. Hales follows:]

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STATEMENT OF WILLIAM R. HALES,
EDITOR AND PUBLISHER
THE INQUIRER NEWSPAPER GROUP
HARTFORD, CONNECTICUT
BEFORE THE
COMMITTEE ON SMALL BUSINESS
UNITED STATES SENATE
MARCH 24, 1983

GOOD MORNING, MR. CHAIRMAN, MY NAME IS WILLIAM R. HALES
AND I AM THE EDITOR AND PUBLISHER OF THE INQUIRER NEWSPAPER
GROUP IN HARTFORD, CONNECTICUT. THE INQUIRER NEWSPAPER
GROUP HAS A CIRCULATION OF 100,000 AND IS THE LARGEST
MINORITY OWNED AND OPERATED NEWSPAPER IN NEW ENGLAND.

I APPRECIATE THIS OPPORTUNITY TO APPEAR BEFORE THE COMMITTEE
AND TO BE ABLE TO PRESENT MY VIEWS ON THE IMPORTANT SUBJECT
OF TODAY'S HEARING.

MY COMMENTS WILL BE DIRECTED AT THE SMALL BUSINESS ADMINISTRATION'S SECTION 8(A) PROGRAM WHICH IS ONE OF THE PRINCIPLE TOPICS OF THIS HEARING. LET ME STATE THAT MY BUSINESS IS NOT A PROSPECTIVE CANDIDATE FOR THE 8(A) PROGRAM.

HOWEVER, MY VIEWS REFLECT THE ATTITUDES I HAVE OFTEN HEARD EXPRESSED BY MY FELLOW MINORITY BUSINESSMEN THROUGHOUT THE STATES OF CONNECTICUT AND MASSACHUSETTS.

I BELIEVE THAT THE SMALL BUSINESS ADMINISTRATION'S SECTION 8(A) PROGRAM IS A VIABLE PROGRAM TO ASSIST MINORITY BUSINESSES IN BECOMING BETTER ESTABLISHED AND COMPETITIVE IN A VERY INEQUITABLE BUSINESS ENVIRONMENT.

I ALSO BELIEVE IN THE HISTORY OF THE PROGRAM. THERE HAVE BEEN MANY BUSINESSES THAT HAVE BENEFITED BY THE KINDS OF ASSISTANCE THAT THE PROGRAM HAS OFFERED.

HOWEVER, THERE ARE TOO MANY MINORITY BUSINESSES THAT ARE KNOWLEDGEABLE OF THE SECTION 8(A) PROGRAM, WHO HAVE LOST HOPE OF EVER RECEIVING AN OPPORTUNITY TO PARTICIPATE IN IT, AND, MANY FIRMS HAVE NO KNOWLEDGE OF THE PROGRAM, WHATSOEVER.

CHANGES IN THE PROGRAM SHOULD BE IMPLEMENTED TO ALLOW A GREATER NUMBER OF BUSINESSES TO HAVE AN OPPORTUNITY TO PARTICIPATE.

TO MAKE MORE OPPORTUNITIES AVAILABLE, THERE MUST BE A STRICTLY ENFORCED TIME SPAN FOR GRADUATION FROM THE PROGRAM, ALONG WITH AN EFFECTIVE AND CONSISTENT MONITORING. THE TIME SPAN SHOULD BE FIVE YEARS (THREE YEARS FOR SERVICE INDUSTRY FIRMS), WITH A ONE YEAR EXTENSION IF THERE ARE SPECIAL CIRCUMSTANCES THAT EXIST, AND ARE BEYOND THE CONTROL OF THE FIRM AND/OR THE SMALL BUSINESS ADMINISTRATION. EVALUATION OF THE ECONOMIC IMPACT THAT THE PARTICULAR FIRM HAS ON THE MINORITY COMMUNITY, ALONG WITH THE PROPORTIONAL GROWTH OF THE FIRM SHOULD BE TAKEN INTO CONSIDERATION WHEN GRANTING AN EXTENSION.

IN MY OPINION, THERE SHOULD BE A 25% INCREASE IN SBA SECTION 8(A) CONTRACT SUPPORT, AND THE ENTIRE PROGRAM SHOULD REACH A MUCH BROADER SECTION OF THE MINORITY BUSINESS COMMUNITY, THEREBY GIVING OTHER NEEDY MINORITY BUSINESSES THE CHANCE TO BENEFIT FROM THIS EXTREMELY VITAL AND WORTHWHILE PROGRAM.

IF MINORITY BUSINESSES ARE TO ACHIEVE SUCCESS IN THE MAINSTREAM OF THE ECONOMY, THE PROGRAM SHOULD OFFER AN INCENTIVE, INSTEAD OF A SUBSIDY.

AGAIN, THANK YOU FOR THIS UNIQUE OPPORTUNITY TO PRESENT MY VIEWS TO THE COMMITTEE. I LOOK FORWARD TO ANSWERING ANY QUESTIONS YOU MAY HAVE.

The CHAIRMAN. Bill, as you are aware, Public Law 96-481 mandated fixed program participation terms or graduation dates be established for 8(a) program participants. You have expressed your feelings on the need for firms to graduate from the program. What has been your experience in Connecticut regarding this particular issue, or, indeed, anywhere?

Mr. HALES. I think my experience in Connecticut is pretty much the same across the county. Too many firms that have gotten an opportunity to enter into the program have gotten somewhat comfortable and feel that, for their business to survive, they have to have an ongoing 8(a) contract support.

I think something is lost there. I think the opportunity to develop a kind of aggressive mind that is necessary to develop the various unique ideas and the innovative ideas it takes to compete in the private sector gets lost oftentimes when that contract is awarded.

The CHAIRMAN. What do you feel SBA and MBDA should be doing to assist those firms who have already graduated or will be graduating from the program?

Mr. HALES. Well, I think they have started in the right direction. SBA and MBDA have begun to work together. I think that is important.

One of the big problems that I think a lot of the minority businesses have is lack of marketing information and the ways and means to better market their product or service. In the early entry into the program, I think the business plan should have an indepth and sophisticated study of the potential market and the ways and means for the business to position itself in that market, and ways and means, with technical and management assistance, to move aggressively, to be competitive in the private business sector.

The CHAIRMAN. Senator Nunn?

Senator NUNN. I just want to compliment the witness, Mr. Chairman. I generally agree with the philosophy he has expressed. That is the direction in which I think the program is moving. There are going to be some rough bumps along the way and some adjustments that would have to be made. But I hope that it is generally the direction in which the 8(a) program moves, because the purpose of the program is business development. The purpose is to have people out at the end who compete.

We are delighted to have you testify, and we appreciate your being here.

The CHAIRMAN. One last question, Bill.

Often, in addition to the problems of capital, the problems relate to management and technical skills that assist the business in an ongoing way. What additional actions do you feel SBA and MBDA should be taking to further enhance this aspect of minority business?

Mr. HALES. Well, if they implement an effective monitoring program, I think they will be able to detect the weaknesses of their program or business and, by detecting those weaknesses, they can make recommendations to a business to know what type of help it should seek, how they can better market their product, how they can better become more competitive.

I think we as minority businesses first have to recognize that many times we do not have that inside contact into the private sector business world. So I think we have to move aggressively and bring on the kind of courtship that is necessary to attract, to influence, in the private business sector, that we are ready to compete; we are ready to enter the market aggressively, and we will render the kind of service that their firm or company can benefit from.

The CHAIRMAN. The last question relates to the communication of what is available. You touched upon this in your prepared statement. The two points that you raised were the fact that a few firms had all the money and that, indeed, large segments of the minority community did not even know of the 8(a) program. How do you remedy that?

Mr. HALES. Well, I think the Small Business Administration has to improve their public relations to make known more about the section 8(a) program. I think that when we find we are having more success in the program, the word will get around, and you will find more people will be attracted to the program. I think we would have more movement and activity within the program, and therefore it will be made known to the minority community that there is an opportunity and they ought to start seeking an opportunity to enter into the program.

The CHAIRMAN. I have no further questions. It is good to see you.

Mr. HALES. It is good to be here.

The CHAIRMAN. I look forward to seeing you back in Connecticut.

Mr. HALES. Thank you.

Senator NUNN. I was going to invite you to move back to Georgia until the chairman preempted me with that announcement about the snow down there. [Laughter.]

Mr. HALES. Well, I have been away from there for quite a while. I get a chance to go back and visit every so often. But I have had some good memories from Georgia.

Senator NUNN. Well, we are proud of the success you have made.

Mr. HALES. Thank you.

The CHAIRMAN. Thank you very much.

Our last witness is Mr. John Shepherd, president of Dale Maintenance Systems of Chicago, Ill. Mr. Shepherd?

Mr. Shepherd, it is nice to have you here.

Please proceed with your statement.

STATEMENT OF JOHN H. SHEPHERD, PRESIDENT, DALE MAINTENANCE CO.

Mr. SHEPHERD. Thank you, Mr. Chairman. It is a pleasure to be here.

I am just going to highlight some of my written testimony, the things that I consider that have been the hallmark of our achievements thus far.

I am the president and owner of Dale Maintenance Co., an industrial cleaning and janitorial service; District Security, an industrial protection service; and Citadel Transport. It is an interstate trucking line, thanks to deregulation.

I am also president and owner of Kankakee Valley Truck Parts and Kankakee Valley Goodyear Tire franchise. In addition, I am half-owner of an insurance agency in Tucson, Ariz.

It is a great honor for me to be with you today to share with you my views on small business in general and, in particular, the role of the Small Business Administration in assisting minority entrepreneurs such as myself. As a prelude to subsequent remarks regarding my companies' experience with the SBA's section 8(a) program, I would ask your indulgence to describe briefly my personal business philosophy.

First, I am a proponent of the Government's presence in the marketplace, certainly as it pertains to minorities. I have in fact been reluctant to capitalize on the fact that I am a minority businessman. This reluctance derives from my recognition, and indeed my very strong belief, that the only way to stay in business is to price the services competitively and to provide the very best services of which you are capable.

All my life, and certainly throughout my business career, I have felt that being an American, with the rights and privileges inherent to that word, is edge enough for me or any man or woman regardless of race or credo.

With the civil rights movement and civil rights legislation beginning in 1954, with integrated educated programs throughout the Nation, I believe our country has reestablished the strong, the very good, and the very positive things that America has stood for since its founding.

I am proud to say that I am an American and I believe in our system of government.

My initial involvement with the Small Business Administration came in 1973. It was a very small beginning. In that year, we were granted a Government contract for security services with the SBA being the contractor and the General Services Administration the subcontractor. The total amount involved was \$13,000.

We were asked to submit our qualifications to the SBA, which we did. That was my first acquaintance with the 8(a) program for minority entrepreneurs. From that modest beginning, our income derived from Government sources grew rapidly and attained a peak of \$811,000 in gross revenues during the calendar year 1977.

We were advised in 1979 that we would be graduated from the program the following year. At that time, our annual gross revenues from the Federal Government were \$161,000.

During the entire course of our relationship with SBA, we received total cooperation and valuable guidance from the agency and its personnel. At the inception of our involvement with the 8(a) program, we were told that we would be participating in a program designed to help us grow and that, once we reached a certain dollar amount, a size standard, we would then be graduated from the program to make room for another entrepreneur trying to get off the ground and establish himself. I wholeheartedly endorse this concept of Government involvement in the private sector.

If, for example, a small business were to reach the size standard established by the SBA for its particular endeavor and then find, as the time for graduation approached, that Government contracts

under the 8(a) program represented 50 to 60 percent of its revenues, I do not believe that business could survive.

In our case, we were determined that Government business should not be our sole, or even our major, source of income. Emphasis also should be placed on the fact that the 8(a) program is not a panacea for unsound business ventures or for those already in financial difficulty.

Rather, I perceive the 8(a) program to be primarily a means of temporarily generating additional cash flow during those formative years when most revenues must be plowed back into the business if it is to remain viable.

At the risk of being redundant, I should like to underscore this caveat. I well recall the sense of near euphoria that engulfed me and my small staff that day, 10 years ago, when we were notified of our qualification for a government contract. We were pleased, of course, that new capital would be flowing into our company for reinvestment. But, more than this, we were elated to know that we were now considered a government-qualified contractor, which to us meant that we could compete on equal footing with any company in the business.

I must confess that this sense of euphoria upon becoming a bona fide contractor can be somewhat distracting, but we made it. I still recall that until we awakened to how precise the size standard was—somewhere around \$5 million in total gross revenue, I believe—we had never thought of ourselves as big business. We always thought that Burns and Wells Fargo and Pinkerton were big.

I am particularly pleased to report to this committee that region V of SBA is very much involved with improving its dialog with the small business community. I believe that misunderstandings such as arose in our case are less likely to arise today. I do not believe it is possible to overstate the importance of such dialog, particularly with respect to the minority entrepreneur.

Just briefly, before I close, within the minority business community, there exists a certain cynicism and perhaps a fatalistic approach toward doing business with the Government in general and with the Small Business Administration in particular. Both, in my experience, are totally without foundation, but to deny their existence would be a disservice to this committee and, indeed, the entire 8(a) program.

I should think that the Government would do well to place greater emphasis on telling the story of small businesses and how they are competing effectively and efficiently for Government business. I believe this constructive approach is gaining momentum under the present SBA administration, and I would hope that this committee will lend its considerable weight to a continuation of this effort.

Beyond this, I would urge only that the Small Business Administration adopt a more graduated withdrawal from the 8(a) program as opposed to an abrupt cutoff, once a particular size standard is reached.

I have alluded several times to the importance of preparing for graduation from the program and suggested that I believe a target number of about 15 percent Government business as graduation

day approaches to be a reasonable and prudent goal. That was the mix we had, Senator. Fifteen percent of our total volume was with the Government, so that, when our graduation day arrived, we were able to stand on our own two feet.

I have, in my prepared testimony, comments about Standard Oil, the help that we received from them, who assisted us in our internal affairs. We formed an executive committee that has been able to help us to prepare and sustain our place in the marketplace.

We recognize also, Senator, that without the Government's presence in the marketplace, we certainly would not be on the positive side of the business ledger. I look back with pride at the fact that we started with 5 employees; now we are over 500. We are doing well in all of our ventures. We are exercising sound business principles which we learned not only from our association with Standard Oil and other major companies such as IBM, Metropolitan Structures, Swift and Co., Campbell Soup, Sara Lee, Dart, and Kraft, but that we have been exposed to sound business principles and concepts, and I believe that this certainly has been the reason that we have been a success.

In concluding, I will state that while ours most certainly is not the greatest success story in America, it is, I believe, among them. Whatever success we have enjoyed I attribute almost entirely to the warm and gracious assistance we have received from others, both in Government and the private sector, every step along the way.

To this my staff and I have contributed a willingness—no, an eagerness—to listen, to mold our actions accordingly, and to provide the very best service of which we are capable.

Mr. Chairman and members of the Senate Committee on Small Business, I am proud to be an American, and I am gratified to be able to express my views on the opportunities this Nation affords.

I would like to conclude with this thought. This is my own. It is good business to do business with small business.

Thank you.

[The prepared statement of Mr. Shepherd follows:]

TESTIMONY OF JOHN H. SHEPHERD
PRESIDENT -- DALE MAINTENANCE COMPANY
BEFORE THE UNITED STATES SENATE
COMMITTEE ON SMALL BUSINESS
MARCH 24, 1983
WASHINGTON, D.C.

THANK YOU, MR. CHAIRMAN. MY NAME IS JOHN H. SHEPHERD. I AM PRESIDENT AND OWNER OF DALE MAINTENANCE COMPANY, AN INDUSTRIAL CLEANING AND JANITORIAL SERVICE; DISTRICT SECURITY, AN INDUSTRIAL PROTECTION SERVICE; AND CITADEL TRANSPORT COMPANY, AN INTERSTATE TRUCKING LINE. I AM ALSO PRESIDENT AND OWNER OF KANKAKEE VALLEY TRUCK PARTS AND KANKAKEE VALLEY GOODYEAR TIRE FRANCHISE. IN ADDITION, I AM HALF-OWNER OF AN INSURANCE AGENCY IN TUCSON, ARIZONA, CALLED SAN XAVIER.

IT IS A VERY GREAT HONOR FOR ME TO BE WITH YOU TODAY, TO SHARE WITH YOU MY VIEWS ON SMALL BUSINESS IN GENERAL, AND IN PARTICULAR THE ROLE OF THE SMALL BUSINESS ADMINISTRATION IN ASSISTING MINORITY ENTREPRENEURS SUCH AS MYSELF. AS A PRELUDE TO SUBSEQUENT REMARKS REGARDING MY COMPANIES' EXPERIENCE WITH THE SBA'S SECTION 8 (A) PROGRAM, I WOULD ASK YOUR INDULGENCE TO DESCRIBE BRIEFLY MY PERSONAL BUSINESS PHILOSOPHY.

FIRST, I AM A PROPONENT OF THE GOVERNMENT'S PRESENCE IN THE MARKETPLACE. CERTAINLY, IT WAS VERY INSTRUMENTAL IN HELPING ME AND MY ASSOCIATES ESTABLISH AND MAINTAIN THE COURSE WE WANTED TO TAKE. AT THE SAME TIME, HOWEVER, I BELIEVE THE GOVERNMENT'S ROLE IN BUSINESS SHOULD BE THAT OF AN EXPEDITER, MONITOR, AND LENDER OF LAST RESORT. I EMPHATICALLY DO NOT BELIEVE THAT GOVERNMENT SHOULD USE TAX DOLLARS TO COMPETE -- UNFAIRLY I BELIEVE -- WITH THE PRIVATE SECTOR.

I HAVE, IN FACT, BEEN RELUCTANT TO CAPITALIZE ON THE FACT THAT I AM A MINORITY BUSINESSMAN. THIS RELUCTANCE DERIVES FROM MY RECOGNITION, AND INDEED MY VERY STRONG BELIEF, THAT THE ONLY WAY TO STAY IN BUSINESS IS TO PRICE YOUR SERVICES COMPETITIVELY AND TO PROVIDE THE VERY BEST SERVICES OF WHICH YOU ARE CAPABLE. ALL MY LIFE, AND CERTAINLY THROUGHOUT MY BUSINESS CAREER, I HAVE FELT THAT BEING AN AMERICAN -- WITH THE RIGHTS AND PRIVILEGES INHERENT TO THAT WORD -- IS EDGE ENOUGH FOR ANY MAN OR WOMAN REGARDLESS OF RACE OR CREDO.

WITH THE CIVIL RIGHTS MOVEMENT AND CIVIL RIGHTS LEGISLATION, BEGINNING IN 1954 WITH INTEGRATED EDUCATION PROGRAMS THROUGHOUT THE NATION, I BELIEVE OUR COUNTRY HAS RE-ESTABLISHED THE STRONG, THE VERY GOOD, AND THE VERY POSITIVE THINGS THAT AMERICA HAS STOOD FOR SINCE ITS FOUNDING. I AM PROUD TO SAY THAT I AM AN AMERICAN, AND THAT I BELIEVE IN OUR SYSTEM OF GOVERNMENT. I

BELIEVE IN THE FREE-ENTERPRISE SYSTEM AND IN THE PROFIT MOTIVE, I LIKE TO CONTRIBUTE TO THE STRENGTHENING OF OUR SYSTEM AND TO OUR SOCIETY, AND WHEN I HAVE HAD THE OCCASION TO SPEAK AT CHURCHES, AT SEMINARS, AND AT OTHER BUSINESS MEETINGS AND FORUMS, I HAVE TALKED ABOUT MY PERSONAL EXPERIENCES AND HOW PROUD I AM TO BE A PART OF THAT SYSTEM.

I AM, WITHOUT A DOUBT, A CONSERVATIVE IN EVERY SENSE OF THAT WORD: I BELIEVE IN THE WORK ETHIC, AND THAT IT WAS HARD WORK THAT MADE THIS NATION GREAT. I WOULD SAY, ALSO, THAT WHILE SMALL BUSINESS -- NOT NECESSARILY THE MINORITY ENTREPRENEUR -- FREQUENTLY NEEDS THE HELP AND SUPPORT OF GOVERNMENT TO BECOME COMPETITIVE, SELF-RELIANCE AND STRIVING ALWAYS TO BE THE BEST, ARE THE PRIMARY FACTORS THAT ENABLE THE SMALL BUSINESSMAN TO REMAIN COMPETITIVE. TO THESE BASIC CRITERIA FOR SUCCESS I WOULD ADD ONE OTHER -- AND THAT IS PATIENCE. LACKING THIS KEY INGREDIENT, THE FORMULA FOR SUCCESS WILL ALMOST ALWAYS BE WEIGHED IN THE BALANCE AND FOUND WANTING. OUR SYSTEM, BY ITS NATURE, IS SLOW AND PONDEROUS, AND PATIENCE IN LARGE MEASURE IS NECESSARY TO OVERCOME THOSE SET-BACKS THAT INEVITABLY OCCUR.

MY INITIAL INVOLVEMENT WITH THE SMALL BUSINESS ADMINISTRATION CAME IN 1973. IT WAS A VERY SMALL BEGINNING; IN THAT YEAR WE WERE GRANTED A GOVERNMENT CONTRACT FOR SECURITY SERVICES, WITH THE SBA BEING THE CONTRACTOR AND THE GENERAL

SERVICES ADMINISTRATION THE SUB-CONTRACTOR. THE TOTAL AMOUNT INVOLVED WAS \$13,000. WE WERE ASKED TO SUBMIT OUR QUALIFICATIONS TO THE SBA, WHICH WE DID, AND THAT WAS MY FIRST ACQUAINTANCE WITH THE 8 (A) PROGRAM FOR MINORITY ENTREPRENEURS. FROM THAT MODEST BEGINNING, OUR INCOME DERIVED FROM GOVERNMENT SOURCES GREW RAPIDLY AND ATTAINED A PEAK OF \$811,000 IN GROSS REVENUES DURING CALENDAR YEAR 1977. WE WERE ADVISED IN 1979 THAT WE WOULD BE GRADUATED FROM THE PROGRAM THE FOLLOWING YEAR. AT THAT TIME, OUR ANNUAL GROSS REVENUES FROM THE FEDERAL GOVERNMENT WERE \$161,000. DURING OUR LAST YEAR IN THE PROGRAM (1980), OUR REVENUES WERE REDUCED TO \$84,000; AND WE SUBSEQUENTLY LEFT THE PROGRAM.

DURING THE ENTIRE COURSE OF OUR RELATIONSHIP WITH THE SBA WE RECEIVED TOTAL COOPERATION AND VALUABLE GUIDANCE FROM THE AGENCY AND ITS PERSONNEL. AT THE INCEPTION OF OUR INVOLVEMENT WITH THE 8 (A) PROGRAM, WE WERE TOLD THAT WE WOULD BE PARTICIPATING IN A PROGRAM DESIGNED TO HELP US GROW, AND THAT ONCE WE REACHED A CERTAIN DOLLAR AMOUNT -- A SIZE STANDARD -- WE WOULD THEN BE GRADUATED FROM THE PROGRAM TO MAKE ROOM FOR ANOTHER ENTREPRENEUR TRYING TO GET OFF THE GROUND AND TO ESTABLISH HIMSELF. I WHOLEHEARTEDLY ENDORSE THIS CONCEPT OF GOVERNMENT INVOLVEMENT IN THE PRIVATE SECTOR.

HAVING SAID THIS, I WOULD ADD THIS CODICIL: HAD WE NOT WORKED TOWARD THE EVENTUAL DAY OF GRADUATION, HAD WE NOT PREPARED

FOR IT AND HAD A TARGET NUMBER IN SIGHT, THE WITHDRAWAL OF GOVERNMENT SUPPORT WOULD HAVE WORKED A SEVERE HARDSHIP ON OUR COMPANY. BASED ON OUR EXPERIENCE, I WOULD SUSPECT THAT ANY COMPANY FAILING TO SO PREPARE WOULD FIND THE EXPERIENCE TRAUMATIC AND PERHAPS FATAL.

IF, FOR EXAMPLE, A SMALL BUSINESS WERE TO REACH THE SIZE STANDARD ESTABLISHED BY THE SBA FOR ITS PARTICULAR ENDEAVOR AND THEN FIND -- AS THE TIME FOR GRADUATION APPROACHED -- THAT GOVERNMENT CONTRACTS UNDER THE 8 (A) PROGRAM REPRESENTED 50 TO 60 PER CENT OF ITS REVENUES, I DON'T BELIEVE THAT BUSINESS COULD SURVIVE. IN OUR CASE, WE WERE DETERMINED THAT GOVERNMENT BUSINESS SHOULD NOT BE OUR SOLE, OR EVEN OUR MAJOR, SOURCE OF INCOME. WITH THIS COMMITMENT FIRMLY IN MIND, WE SET A TARGET NUMBER AND SO ARRANGED OUR AFFAIRS THAT BY THE TIME WE GRADUATED, GOVERNMENT BUSINESS REPRESENTED LESS THAN 15 PER CENT OF OUR TOTAL VOLUME. I WOULD SUGGEST THAT THIS IS A REASONABLE AND PRUDENT GOAL, AND ONE WHICH THE SBA, IN ITS INITIAL AND ONGOING CONTACTS WITH MINORITY ENTREPRENEURS, SHOULD STRESS TIME AND AGAIN. EMPHASIS ALSO SHOULD BE PLACED ON THE FACT THAT THE 8 (A) PROGRAM IS NOT A PANACEA FOR UNSOUND BUSINESS VENTURES OR FOR THOSE ALREADY IN FINANCIAL DIFFICULTY. RATHER, I PERCEIVE THE 8 (A) PROGRAM TO BE PRIMARILY A MEANS OF TEMPORARILY GENERATING ADDITIONAL CASH FLOW DURING THOSE FORMATIVE YEARS WHEN MOST REVENUES MUST BE PLOWED BACK INTO THE BUSINESS IF IT IS TO REMAIN VIABLE.

AT THE RISK OF BEING REDUNDANT, I SHOULD LIKE TO UNDERScore THIS CAVEAT. I WELL RECALL THE SENSE OF NEAR EUPHORIA THAT ENGULFED ME AND MY SMALL STAFF THAT DAY 10 YEARS AGO WHEN WE WERE NOTIFIED OF OUR QUALIFICATION FOR A GOVERNMENT CONTRACT. WE WERE PLEASED, OF COURSE, THAT NEW CAPITAL WOULD BE FLOWING INTO OUR COMPANY FOR REINVESTMENT. BUT MORE THAN THIS, WE WERE ELATED TO KNOW THAT WE WERE NOW CONSIDERED A GOVERNMENT-QUALIFIED CONTRACTOR, WHICH TO US MEANT THAT WE COULD COMPETE ON EQUAL FOOTING WITH ANY COMPANY IN THE BUSINESS.

I MUST CONFESS THAT THIS SENSE OF EUPHORIA UPON BECOMING A BONA FIDE GOVERNMENT CONTRACTOR CAN BE SOMEWHAT DISTRACTING, AND PERHAPS OBSCURE THE MORE RATIONAL THOUGHT PROCESS. AT OUR STAFF MEETING FOLLOWING SBA NOTIFICATION, WE BROUGHT UP THIS WORD "GRADUATION," AND -- AS I HAVE NOTED -- DETERMINED THAT OUR BUSINESS THRUST AND PLANNING WOULD BE DIRECTED TOWARD THAT DAY. BUT AS I LOOK BACK UPON THAT MEETING, I HAVE NO RECOLLECTION OF ANYONE HAVING RAISED THE QUESTION OF JUST WHAT SIZE STANDARD -- OR DOLLAR AMOUNT -- WOULD SIGNAL OUR GRADUATION FROM THE PROGRAM, OR HOW IT WOULD BE APPLIED IN OUR CASE.

I STILL RECALL THAT UNTIL WE AWAKENED TO HOW PRECISE THE SIZE STANDARD WAS -- SOMEWHERE AROUND \$5 MILLION IN TOTAL GROSS ANNUAL REVENUES I BELIEVE -- WE HAD NEVER THOUGHT OF OURSELVES AS

"BIG" BUSINESS. TO US, THAT WAS A TERM RESERVED FOR PROTECTION AGENCIES SUCH AS BURNS, WELLS FARGO, OR PINKERTON. BUT WE FOUND THAT WE, TOO, WERE CONSIDERED "BIG" BY SBA STANDARDS WHEN THE REVENUES OF OUR SECURITY SERVICE WERE COMBINED WITH THOSE OF OUR SISTER COMPANY, DALE MAINTENANCE. ALTHOUGH WE HAD NOT ANTICIPATED THAT REVENUES GENERATED BY BOTH COMPANIES WOULD BE APPLIED AGAINST REVENUES EARNED ONLY BY DISTRICT SECURITY, I AM TODAY IN COMPLETE AGREEMENT WITH THE CONCEPT. IT HAS, IN POINT OF FACT, BEEN OUR DIVERSIFICATION INTO SEVERAL LINES OF BUSINESS THAT HAS PROVED TO BE THE KEY TO WHATEVER SUCCESS WE HAVE ENJOYED AND, INDEED, THE KEY TO OUR SURVIVAL.

I AM PARTICULARLY PLEASED TO REPORT TO THIS COMMITTEE THAT REGION V OF SBA IS VERY MUCH INVOLVED WITH IMPROVING ITS DIALOGUE WITH THE SMALL-BUSINESS COMMUNITY, AND I BELIEVE THAT MISUNDERSTANDINGS SUCH AS AROSE IN OUR CASE ARE LESS LIKELY TO ARISE TODAY. I DO NOT BELIEVE IT IS POSSIBLE TO OVERSTATE THE IMPORTANCE OF SUCH DIALOGUE, PARTICULARLY WITH RESPECT TO THE MINORITY ENTREPRENEUR.

WITHIN THE MINORITY-BUSINESS COMMUNITY, THERE EXISTS A CERTAIN CYNICISM, AND PERHAPS A FATALISTIC APPROACH, TOWARD DOING BUSINESS WITH THE GOVERNMENT IN GENERAL, AND WITH THE SMALL BUSINESS ADMINISTRATION IN PARTICULAR. BOTH, IN MY EXPERIENCE ARE TOTALLY WITHOUT FOUNDATION, BUT TO DENY THEIR EXISTENCE WOULD

BE A DISSERVICE TO THIS COMMITTEE, AND INDEED THE ENTIRE 8 (A) PROGRAM. IN MY VIEW, THIS CYNICISM DERIVES FROM THE BELIEF THAT THE FEDERAL GOVERNMENT IS GOING TO DO BUSINESS ONLY WITH BIG COMPANIES -- THE LOCKHEEDS, THE BOEINGS, THE GENERAL MOTORS OF THE CORPORATE WORLD.

I SHOULD THINK THAT THE GOVERNMENT WOULD DO WELL TO PLACE GREATER EMPHASIS ON TELLING THE STORY OF SMALL BUSINESSES, AND HOW THEY ARE COMPETING EFFECTIVELY AND EFFICIENTLY FOR GOVERNMENT BUSINESS. I BELIEVE THIS STORY SHOULD BE TRANSLATED IN VERY CONCRETE TERMS AND PASSED ON TO OTHERS IN THE SMALL BUSINESS COMMUNITY SO THAT THEY CAN PARTICIPATE AND ENJOY SIMILAR SUCCESS. AND SO FAR AS MINORITY BUSINESS IS CONCERNED, THERE SHOULD BE ADDED THRUST DIRECTED AT MAINTAINING SUCH A DIALOGUE.

I HAVE -- IN MY OWN SMALL WAY -- ENDEAVORED TO HELP "SPREAD THE WORD," AND WOULD SUSPECT THAT THERE ARE MANY SMALL BUSINESSMEN SUCH AS MYSELF WHO WOULD BE PLEASED TO BECOME INVOLVED IN SUCH AN EFFORT. I BELIEVE THIS CONSTRUCTIVE APPROACH IS GAINING MOMENTUM UNDER THE PRESENT SBA ADMINISTRATION, AND I WOULD HOPE THAT THIS COMMITTEE WILL LEND ITS CONSIDERABLE WEIGHT TO A CONTINUATION OF THIS EFFORT. BEYOND THIS, I WOULD URGE ONLY THAT THE SMALL BUSINESS ADMINISTRATION ADOPT A MORE GRADUATED WITHDRAWAL FROM THE 8 (A) PROGRAM, AS OPPOSED TO AN ABRUPT CUTOFF ONCE A PARTICULAR SIZE STANDARD IS REACHED. THERE IS A VERY REAL

AND COGENT STORY TO BE TOLD OF HOW SMALL BUSINESS, WITH THE HELP AND SUPPORT OF THE FEDERAL GOVERNMENT, IS CONTRIBUTING IN A VERY MEANINGFUL WAY TO THE ECONOMIC HEALTH OF OUR COUNTRY. THE EFFECTIVE TELLING OF THIS STORY SHOULD ENCOURAGE MORE MINORITY ENTREPRENEURS TO BECOME INVOLVED IN THE SBA'S 8 (A) PROGRAM.

I HAVE ALLUDED SEVERAL TIMES TO THE IMPORTANCE OF PREPARING FOR GRADUATION FROM THE PROGRAM, AND SUGGESTED THAT I BELIEVE A TARGET NUMBER OF ABOUT 15 PER CENT GOVERNMENT BUSINESS AS GRADUATION DAY APPROACHES TO BE A REASONABLE AND PRUDENT GOAL. THE ATTAINMENT OF SUCH A GOAL, REALLY THE HEART AND SOUL OF THE 8 (A) PROGRAM, DEMANDS A STEADFAST RESOLVE ON THE PART OF THE SMALL BUSINESSMAN TO STRENGTHEN HIS TIES WITH THE PRIVATE SECTOR. I SHOULD LIKE TO DEVOTE MY CONCLUDING REMARKS TO DEVELOPING THIS THOUGHT IN MORE DETAIL.

AT THE INCEPTION OF MY BUSINESS CAREER IN THE CITY OF CHICAGO, WE WERE STRUGGLING LIKE MOST SMALL BUSINESSES TO MEET OUR PAYROLL AND KEEP THE WOLF AWAY FROM THE DOOR. IN 1969, NEARLY FOUR YEARS PRIOR TO OUR INVOLVEMENT WITH THE SBA, WE ENTERED INTO NEGOTIATIONS WITH THE STANDARD OIL COMPANY OF INDIANA. I WAS ADVISED BY OFFICIALS OF THAT LARGE, MULTINATIONAL COMPANY THAT STANDARD OIL WAS INITIATING A MEANS OF MINORITY SUPPORT THROUGH THEIR VARIOUS MESBIC PROGRAMS UNDER AUSPICES OF A NEWLY CREATED SUBSIDIARY KNOWN AS AMOCO VENTURE CAPITAL COMPANY.

WE WERE INVITED TO PARTICIPATE WITH THE UNDERSTANDING THAT STANDARD OIL WOULD CONSIDER AWARDING US A CONTRACT ON A COMPETITIVE BASIS. THEY SUBSEQUENTLY ESTABLISHED, WITHIN MY COMPANY, AN ADVISORY COUNCIL WHICH WE EUPHEMISTICALLY CALLED OUR EXECUTIVE COMMITTEE. IT WAS WITH THIS KIND OF EXPOSURE TO THE WORLD OF BIG BUSINESS, AND THE EXPERTISE AND TALENT THAT WAS MADE AVAILABLE TO US, THAT WE WERE ABLE TO ESTABLISH OURSELVES IN THE BUSINESS COMMUNITY AND TO AVOID MANY OF THE PITFALLS THAT THOSE WITH LESS SOPHISTICATION ARE APT TO ENCOUNTER. IT WAS THIS ASSOCIATION, MORE THAN ANY OTHER SINGLE FACTOR, THAT STARTED US ON OUR ROAD TO SUCCESS.

AT THE TIME WE BEGAN OUR ASSOCIATION WITH STANDARD OIL, WE HAD 37 FULL-TIME EMPLOYEES INVOLVED IN JANITORIAL AND SECURITY SERVICES. WE BID SUCCESSFULLY ON A CONTRACT TO SUPPLY JANITORIAL SERVICES AT STANDARD'S NEW RESEARCH FACILITIES AT NAPERVILLE, ILLINOIS. THIS CONTRACT ENABLED US TO PUT 11 ADDITIONAL PEOPLE TO WORK, FOUR OF WHOM WERE TAKEN OFF THE WELFARE ROLES AND ALL OF WHOM WERE RESIDENTS OF THE INNER CITY OF CHICAGO. THIS WAS IN SEPTEMBER, 1970. WHEN STANDARD OIL COMPLETED CONSTRUCTION OF ITS NEW 80-STORY INTERNATIONAL HEADQUARTERS THREE YEARS LATER, WE ALSO WERE AWARDED THE CONTRACT FOR JANITORIAL SERVICES FOR THAT BUILDING.

PRIOR TO OUR DOING BUSINESS WITH STANDARD OIL, WE WERE EMPLOYED BY CHICAGO BRIDGE AND IRON COMPANY, AND A GROWING SUBURBAN MANUFACTURER, CHEMPLEX CORPORATION OF ARLINGTON HEIGHTS. OTHER COMPANIES THAT HAVE BEEN SUPPORTIVE OF OUR EFFORTS, AND INSTRUMENTAL IN OUR GROWTH, HAVE BEEN THE CHICAGO SUN-TIMES PUBLISHING COMPANY, THE WRIGLEY COMPANY, IBM, METROPOLITAN STRUCTURES, SWIFT AND COMPANY, CAMPBELL SOUP COMPANY, SARA LEE BAKERIES, AND THE BUDWEISER, COORS, AND STROHS BREWING COMPANIES. WHEN WE SAW AN OPPORTUNITY TO EXPAND OUR OPERATIONS INTO THE INTERSTATE TRUCKING BUSINESS IN 1981, DART & KRAFT INDUSTRIES PROVIDED US WITH MUCH THE SAME SORT OF ADVICE AND COUNCIL AS HAD STANDARD OIL SEVERAL YEARS EARLIER. KRAFT WANTED TO DO BUSINESS WITH A GOOD TRUCKER; THEY TAUGHT US THE BUSINESS, AND WE ARE THERE BECAUSE OF THEM. TODAY, WE ARE DOING MORE THAN \$1.4 MILLION ANNUAL TRUCKING BUSINESS WITH KRAFT FOODS ALONE, HAULING PRINCIPALLY FROM THE MIDWEST OUT TO PENNSYLVANIA AND DOWN TO FLORIDA. WITHOUT DEREGULATION OF THE TRUCKING INDUSTRY, OUR ENTRY INTO THIS BUSINESS WOULD NOT HAVE BEEN POSSIBLE.

SINCE BEGINNING OUR ASSOCIATION WITH STANDARD OIL, REALLY THE WATERSHED IN OUR CORPORATE HISTORY, WE HAVE INCREASED OUR EMPLOYMENT FROM 37 EMPLOYEES TO MORE THAN 500 ENGAGED IN VARIOUS OCCUPATIONS. TODAY WE EMPLOY SALES PEOPLE, TRUCK DRIVERS, WINDOW WASHERS, JANITORIAL PERSONNEL, INSURANCE PEOPLE, AND SECRETARIAL AND CLERICAL PERSONNEL. I MIGHT ADD ALSO THAT ONE OF THE FACETS

OF OUR BUSINESS OF WHICH WE ARE MOST PROUD IS THAT WE HAVE FOUND IT POSSIBLE TO PROVIDE TRAINED PERSONNEL FOR CLIENT COMPANIES WHEN THEY HAVE EMPLOYMENT OPPORTUNITIES THAT REPRESENT ADVANCEMENT POTENTIAL FOR OUR EMPLOYEES. AT STANDARD OIL'S NAPERVILLE RESEARCH CENTER ARE NOW EMPLOYED SECRETARIES, RECEPTIONISTS, AND LABORATORY TECHNICIANS THAT ONCE WERE ON OUR PAYROLL. WE ARE EXTREMELY PROUD OF THIS FACT.

IN CONCLUDING, I WOULD STATE THAT WHILE OURS MOST CERTAINLY IS NOT THE GREATEST SUCCESS STORY IN AMERICA, IT IS -- I BELIEVE -- AMONG THEM. WHATEVER SUCCESS WE HAVE ENJOYED, I ATTRIBUTE ALMOST ENTIRELY TO THE WARM AND GRACIOUS ASSISTANCE WE HAVE RECEIVED FROM OTHERS -- BOTH IN GOVERNMENT AND THE PRIVATE SECTOR -- EVERY STEP ALONG THE WAY. TO THIS MY STAFF AND I HAVE CONTRIBUTED A WILLINGNESS -- NO, AN EAGERNESS -- TO LISTEN, TO MOLD OUR ACTIONS ACCORDINGLY, AND TO PROVIDE THE VERY BEST SERVICE OF WHICH WE ARE CAPABLE.

MR CHAIRMAN, MEMBERS OF THE SENATE COMMITTEE ON SMALL BUSINESS, I AM PROUD TO BE AN AMERICAN AND I AM GRATIFIED TO BE ABLE TO EXPRESS MY VIEWS ON THE OPPORTUNITIES THIS NATION AFFORDS. I WOULD CONCLUDE WITH THIS THOUGHT: IT IS GOOD BUSINESS TO DO BUSINESS WITH SMALL BUSINESS.

THANK YOU.

The CHAIRMAN. Thank you very much.

You ought to know that, before he left, Senator Nunn left a note which I will read to you. It is addressed to you. It says, "It is heartening to hear of your success story and your excellent advice both to this committee and the minority business community."

I must confess, I am as impressed as the ranking member of this committee.

Mr. SHEPHERD. Thank you.

The CHAIRMAN. I would now like to defer to my good friend and colleague from your home State, and let him put you under the spotlight and let him do the grilling. If he gets out of line, you can visit your retribution on him politically. [Laughter.]

So here we are, anyway, with our good friend Senator Dixon. You go right ahead.

STATEMENT OF HON. ALAN J. DIXON, A U.S. SENATOR FROM THE STATE OF ILLINOIS

Senator DIXON. Thank you, Mr. Chairman.

I am not going to grill Mr. Shepherd. I do want to observe that John Shepherd is well known in the business community in Chicago and my State. He has an outstanding reputation. He is the kind of man that reflects credit upon the business community and our country and the kind of program that we are addressing here.

I would like to say for the record, Mr. Chairman, that I recognize that today our committee is reviewing the Federal Government's effort to foster the development of minority business. It is an oversight hearing that will focus the attention of the business community and procurement agency officials on the importance of doing business with minority business.

Although I am a relatively new Member of the Senate, I have had a longstanding commitment to enhance the opportunities for small and minority businesses to share in the billions in Federal procurement contracts.

You, Mr. Chairman, and the ranking member of this committee who has just left, my friend Senator Sam Nunn, have been unfailing in your support of minority business development, and I can assure you that that commitment is well known throughout the country.

I have seen firsthand the high quality work that firms such as Mr. Shepherd's perform. The committee has just heard from one of our outstanding minority business success stories in Illinois, Mr. Chairman, the story of John Shepherd of Dale Maintenance in Chicago. His drive and commitment to the competitive free enterprise system proves that with an appropriate but limited amount of Federal cooperation, the results can be remarkable and his story can be retold by many firms in this Nation with capabilities from guard services to sophisticated defense electronics.

The 8(a) program has had its problems, and we have tried to provide guidance to SBA to correct these problems. The President's December message on minority business and the testimony of Mr. Shepherd should send a loud and clear message that we recognize the importance of a healthier, growing segment of minority entrepreneurs.

We in this committee must take whatever steps are necessary, Mr. Chairman, to provide them with a fair chance for success in their business efforts.

I want to thank John for coming here.

Mr. SHEPHERD. Thank you, Senator.

Senator DIXON. Nothing that I could question you about would elaborate upon the outstanding record you have made, and I thank you for giving us this opportunity to hear your story, John.

Mr. SHEPHERD. You are very kind, sir. Thank you.

The CHAIRMAN. Mr. Shepherd, I only have one question.

I noticed you were in the room here at the time the Secretary of Commerce testified, and the Administrator of the Small Business Administration.

Mr. SHEPHERD. Yes, I was.

The CHAIRMAN. Do you feel the additional steps which they discussed today in terms of placing this at the Cabinet level, in terms of giving additional directives to the fields, that these are the types of corrective actions which you feel will even further enhance the program?

Mr. SHEPHERD. Yes, Senator, I do, but I think, also, this committee should monitor the private sector, because, really, this is where our survival is.

I mentioned earlier that I was reluctant to be identified as a minority because I always felt that American was all you need to be. We are working very, very hard to be competitive. We feel that certainly we can hold our own with any company of businesses in which we are engaged.

I was certainly heartened by, and I fully support, the recommendations made by Secretary Baldrige and Administrator James Sanders. Yes, I do concur.

The CHAIRMAN. Obviously, they recognize the very point that you raised because Secretary Baldrige has indicated a very close contact with the private sector. I think you are right. This is ultimately where this battle is going to be won or lost. The Government affords that initial opportunity.

I do not think that minority business, any more than business as a whole, wants to be dependent on the Federal Government, except for a few defense contractors.

Mr. SHEPHERD. Yes.

The CHAIRMAN. It is not something that anybody looks to shape their business on.

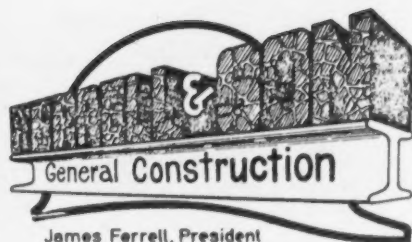
I thank you very much, Mr. Shepherd, for your testimony. It certainly is a great success story. Thank you for joining us.

The committee will stand in recess.

Senator DIXON. Thank you.

Mr. SHEPHERD. Thank you.

[Whereupon, at 11:22 a.m., the committee recessed, to reconvene at the call of the Chair.]



20 Newcastle St.SW Atlanta, Ga. 30314
 (404) 763-5203 / 348-8508 / 896-5329
 "A second generation business"

March 24, 1983

To The Senate Committee on Small Business:

Thank you members of this forum for allowing me the opportunity to speak relative to the impact of the SBA 8(A) Program and how it could enhance the financial opportunities of my minority small business. I am James C. Ferrell, President of Ferrell & Son General Construction Company in Atlanta, Georgia. Currently, we are being considered for entrance into the 8(A) Program after trying to attain certification for four years.

Our firm has been in business for 9 years under the present name and now employs approximately 30 persons, not all of which are full time. Our firm's book of business centers around new construction and renovation and all of our contracts are secured through competitive bidding against majority and other minority firms. Over 75% of our contract dollars have come through work contracted with the City of Atlanta. Our bonding capability range is up to \$800,000.00.

As noted from this profile, my firm apparently is not able to compete successfully for business in the private sector. There are three main reasons: 1) Socially, by being a minority small business firm, we are not in the mainstream of the construction trade. Hence, our awareness of business opportunities becomes very limited; 2) Most, if not all contracts today require bonding, and the bonding capabilities of minority businesses are limited. Many minority businesses are forced to survive on small sub-contracts with little or no overhead instead of being prime contractors because bonding is not available; 3) Of most

importance is the limited availability of financial resources from lending institutions to operate on a day-to-day basis. In this regard, most bid proposals from the private sector and many governmental contracts do not offer general and administrative cost in advance of physically starting a contract. As a consequence it is extremely difficult to carry the cost of procuring and implementing contracts, often up to two months prior to receiving funds for work performed. My firm has a professional estimating staff along with clerical assistance. These salaries constitute a financial drain on the assets of the company. For instance, over a period of six months we might estimate and bid on 10 to 15 major proposals and are only successful in securing 1 or 2. The overhead cost for this period of time, therefore, becomes very great and lending institutions are skeptical in offering lines of credit to support minority firms.

The SBA 8(A) Program would aid the development of my firm by providing sufficient income to meet the general and administrative cost as outlined above. If these basic costs are met, I would be free to devote more time and effort to negotiating and estimating projects in the private sector. This would allow me to build up my organization and add to my experience while allowing my firm to develop its financial assets and portfolio to a level sufficient to compete effectively in the private sector.

We have an excellent track record in job performance and our staff is very competent. Since many contracts offered under 8(A) certification are negotiated contracts, not only is the SBA assured of receiving bid quotations within their estimated range, but also the level of job performance remains high, for the minority contractor is assured of sufficient capital to perform at a high level of competence.

Thank you very much for your attention

WCG

The Washington Consulting Group

1625 Eye Street, N.W.
Suite 214
Washington, D.C. 20006
(202) 457-0233

March 31, 1983

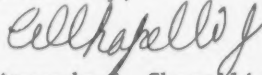
The Honorable Lowell Weicker, Jr.,
Chairman
United States Senate
Committee on Small Business
Washington, D.C. 20510

Dear Senator Weicker,

I am pleased to submit the attached written statement for inclusion in the Committee's hearing record on Federal Minority Business Development Programs.

I hope that some of the ideas I present are of value to the Committee in this important task.

Sincerely,



Armando C. Chapelli, Jr.
President

ACCjr/eg
Enc.

FEDERAL MINORITY BUSINESS DEVELOPMENT PROGRAMS
A.C. Chapelli, Jr.

"... If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself."

James Madison,
FEDERALIST PAPER 51

In my three years and four months as an 8(a) contractor, I have often reflected on Madison's view of government as both reflecting and molding the character and behavior of the governed, and of itself. Government programs are nothing but adaptive statements -- they bring contemporary reality into harmony with our political philosophy and traditions. They are thus designed, implemented and administered in a constitutionally sound manner, striking an acceptable balance between the "ought" and the "is"; providing by their administration the services and/or opportunities intended, in equitable fashion; incorporating in their constituencies all those for whose benefit they were legislated; promoting through their execution not only the material, but also the moral well-being of participants; in short, they improve the lot of the nation's human capital through carefully targetted intervention.

When programs radically depart from this difficult equilibrium; when the harmonious adaptation to reality becomes an attempt to create a new reality, regardless of consequences; when the services and/or opportunities intended become the political and material currency of civil servants; when the participation in those programs becomes a process of political Darwinism; when, rather than promoting good citizenship among participants, they foster

questionable practices; in brief, when they fail to improve the lot of those they intended to serve, the nation as a whole is weakened. Regrettably, for several years before Administrator James C. Sanders took over the Agency, the 8(a) program of the U.S. Small Business Administration was run in the latter fashion. The program was originally devised as an adaptive statement to contemporary reality, its objective being to provide access to publicly financed procurements to a constituency for whom such access was impossible -- for reasons beyond its control. After all, the government of a society founded on the cornerstone of equal socio-economic opportunity was systematically excluding small and minority businesses from economic participation. However, this new tool for penetrating the federal market soon acquired additional objectives, as it moved from an access to a developmental framework. It didn't stop there.

From developmental goals the program moved to "competitive-ness" goals, and from there to guaranteeing the economic viability of participants through 1) indefinite participation terms; 2) access to cheap, easy capital; 3) free management assistance, and other -- often remedial -- services.

Had these goals been pursued with vigor, in equitable fashion, perhaps the program would have been more effective. But they weren't. Instead, finding itself in control of the highly prized 8(a) certification, the SBA often based its approval of firms on the relative political advantage it could derive from granting it. Other times, certification was granted on the basis of everything but sound business reasons.

The stage was thus set for the emergence of one of the more distressing aspects of the program's history. For this chosen elite of politically astute firms became institutionalized and received about 80% of the dollar value of contracts set aside through the program -- many handed to them year after year by SBA,

even when SBA had the option to select other firms.

What developed then was not just a program whose stated objectives had been distorted in practice, but one whose distorted objectives were selectively pursued by the agency on behalf of a few clients, and to the detriment of the majority of firms lacking political or other connections. A kind of political Darwinism ensued, under which companies seeking 1) entry; 2) guaranteed tenure after entry; or, 3) guaranteed viability through various kinds of (primarily contract) support, formed alliances and/or partnerships with the politically powerful. The free market of economic competition became a political "free-for-all."

For these and other reasons, as historically administered, the 8(a) program fostered not good citizenship among participants; not innovation and creativity; not ethical conduct, even in a business sense; rather, it promoted questionable practices. Many businessmen who would otherwise fully qualify for certification were forced to either pay the politician or pay the "consultant." Other times they were persuaded to hire certain employees, or to subcontract to certain firms.

I had always held the view that only three decisive actions could rescue this program. First, guaranteed permanent tenure would need to be removed as a possibility. Second, the larger, elite firms would need to be graduated. Third, contract support would have to be evenly distributed among participants by SBA or, alternatively, SBA would have to be removed from the contracting loop, its primary remaining function being to certify firms.

The first of these steps was taken by SBA early in this Administration through the negotiation of Fixed Program Participation Terms no longer than five years, with a possible two-year grace period, for a maximum possible seven-year tenure. The second, more challenging step was to graduate the larger, entrenched firms. This, Administrator Sanders carried out with consummate skill and

political courage. At this point, I must digress briefly, for I never until February 14, 1983, believed that the graduation would take place. I stand-happily-corrected.

In my mind, the only remaining step is critically important: DISTRIBUTE THE CONTRACT SUPPORT EVENLY AND FAIRLY -- NOW! My firm, like many other participants, has never received as much as a phone call from SBA regarding contracting opportunities. Yet, all of us are now subject to the fixed term, and our "opportunity time" runs shorter each day.

I am confident that the new spirit prevailing at the SBA will see all these changes through, and that, when completely adopted, Madison's admonition to "oblige government to control itself" will go a long way toward fostering the formation and growth of successful minority-owned enterprises.

I applaud and support Administrator Sanders' effective reorientation of the 8(a) program.

Snorton & Associates

Consultant Service
Landscaping Service
Construction
Housing

P.O. Box 654
Hopkinsville, Kentucky 42240

Phone 502-885-6211
Dr. Claude Snorton, Jr., Consultant Executive

April 1, 1983

Senator Lowell Weicker, Jr.
United States Senate
Committee On Small Business
Washington, D.C. 20510

RE: Senate Small Business Committee's hearing on
Federal Government Minority Business Development Programs

Dear Chairperson Weicker and Committee:

Snorton and Associates is a diversified, minority-owned business. I am the sole proprietor of this business, which was begun in 1974 as Snorton Consultant Service. At this time, in addition to consultant services, Snorton & Associates is also involved in landscaping, housing & construction, and research & development. With these additional services, Snorton & Associates is rapidly expanding.

In this area (Western Kentucky-Tennessee), environmental and agricultural projects, U.S. Army Procurement contracts, coalmine land reclamation, and recreation/conversation areas provide many opportunities for my services to be utilized. However, as a small, minority-owned business it is often difficult to compete with the larger companies and corporations that bid on these contracts. However, through participation in the Small Business Administration's 8(a) Business Development Program, Snorton & Associates would have an enhanced opportunity to secure such contracts, because the procurement agencies in this area provide little, if any, direct assistance to minority-owned businesses.

In February 1982, I applied for the SBA 8(a) program (see attached documents). After several months of waiting, and after making several calls to SBA officials, I received a letter of denial in November 1982 (see attached copy of letter).

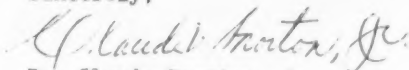
I feel this denial was unwarranted for a number of reasons. First, Snorton & Associates was at that time an established, 100% minority-owned business with a good track record. The business has shown growth each year. In addition, few minorities have the background

and expertise in the fields of agriculture, landscaping, training and research that I possess. Finally, the need for the services that I offer is undeniable. I am personally aware of contracts that have been awarded in this geographical area by the U.S. Army, the Department of Housing & Urban Development, and the Environmental Protection Agency requiring these types of services. To my knowledge, the few minority businesses that have been utilized have only been involved as sub-contractors.

Furthermore, with this area possessing the highest percentage of minorities in the state (Kentucky), this area is a prime site to work towards the SBA objective of assisting the socially/economically disadvantaged. Snorton & Associates could definitely be a vital part of this accomplishment because of the nature of this business. Additionally, Snorton & Associates has been actively involved in training minority and disadvantaged persons for jobs in the private sector. In the past, some of these individuals have been employed by Snorton & Associates for some of its projects. With 8(a) assistance and subsequent contract awards, Snorton & Associates could provide employment for additional persons.

In conclusion, I am hopeful that Snorton & Associates and other minority businesses like it would be utilized through the SBA 8(a) Business Development Program. These businesses would benefit from it, but more importantly, necessary services would be provided to our government agencies and the people they are designed to serve.

Sincerely,



Dr. Claude Snorton, Jr.
Owner, Snorton & Associates
P.O. Box 654
Hopkinsville, Kentucky 42240

CS:tes

Enclosures

CAPABILITY REVIEW AND REQUIREMENTS REQUEST		☒ INITIAL SUBMISSION									
		☐ REVISION									
To: AA/MSB&COD WASHINGTON, D.C. 20416		DATE 2-26-82									
1. APPLICANT'S NAME AND ADDRESS (Include County and ZIP Code): Snorton and Associates P.O. Box 654 Hopkinsville, Christian County, Kentucky 42240 COMPANY CONTACT: Dr. Calude Snorton, Jr TELEPHONE NUMBER: (502) 885-6211											
2. TYPE OF ORGANIZATION (CHECK ONE): ☒ Individual ☐ Partnership ☐ Other ☐ Corporation Years in Business <u>8</u>											
3. TYPE OF BUSINESS (Check Applicable Box(es): ☐ Manufacturer or Producer ☒ Professional Service ☐ Non-Professional Service ☒ Construction ☐ Wholesale/Retail Trade ☒ Other (Specify) Landscaping											
4. SIZE OF BUSINESS: (a) Number of Employees <u>10</u> (b) Floor Space (Sq. Ft.): MFG. _____ : Warehouse _____ : Office <u>20,000</u>											
CATEGORY: ☒ Small Disadvantaged Business ☐ Women Owned Business ☐ SBA 8(a) Approval, Date _____ ☐ Fixed Program Participation Expiration Date _____											
5. CONTRACTS HELD WITH FEDERAL GOVERNMENT DURING PAST 3 YEARS (List separately - Use an attachment if more space is needed) <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Procuring Agency</th> <th>Product Service Code</th> <th>Description</th> <th>\$ Value</th> </tr> </thead> <tbody> <tr> <td colspan="4">None</td> </tr> </tbody> </table>				Procuring Agency	Product Service Code	Description	\$ Value	None			
Procuring Agency	Product Service Code	Description	\$ Value								
None											
6. LIST ITEMS OR SERVICES FOR WHICH FIRM NOW SEEKS COMMERCIAL MARKETS: <table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td>Landscaping</td> <td>Construction</td> </tr> <tr> <td>Consultant Services</td> <td>Housing services</td> </tr> </tbody> </table>				Landscaping	Construction	Consultant Services	Housing services				
Landscaping	Construction										
Consultant Services	Housing services										
7. SALES:											
a. Company Fiscal Year <u>July 1</u> to <u>June 30</u> (Month, Date) (Month, Date)											
b. Sales By Company Fiscal Year (Last 3 Years)											
	19 80-81	19 79-80	19 78-79								
8(a) Sales	\$ -0-	\$ -0-	\$ -0-								
Non-8(a) Government Sales	\$ -0-	\$ -0-	\$ -0-								
Commercial Sales	\$ 62,000	\$ 50,200	\$ 31,000								
Total	\$ 62,000	\$ 50,200	\$ 31,000								
Is additional financial information available for private industry upon request? ☒ Yes ☐ No											



U. S. SMALL BUSINESS ADMINISTRATION

REGION IV
1375 PEACHTREE ST., N.E., 5th FLOOR
ATLANTA, GEORGIA 30309

OFFICE OF THE REGIONAL ADMINISTRATOR

November 18, 1982

Dr. Claude Snorton, Jr.
Snorton and Associates
Post Office Box 654
Hopkinsville, Kentucky 42240

Dear Dr. Snorton:

Regretfully, your application for 8(a) Program participation cannot be further processed at this time because we are unable to locate continuing contract support to meet your firm's business plan projections.

Your present application will be kept on file in the SBA District Office of your state for six months to determine if continuing contract support can be identified. Should such contract support be identified, you will be issued a business plan application by your local SBA District Office to determine personal and business eligibility.

We encourage you to check periodically with your local District Office to determine identification of continuing contract support.

Sincerely,

Miller Widemire
Regional Administrator

"THE FEDERAL GOVERNMENT IS AN EQUAL OPPORTUNITY EMPLOYER"

O